



GOVERNMENT OF INDIA

Chandigarh Administration Gazette

Published by Authority

NO. 032] CHANDIGARH, WEDNESDAY, FEBRUARY 28, 2024 (PHALGUNA 09, 1945 SAKA)

CHANDIGARH ADMINISTRATION
HOME DEPARTMENT

Notification

The 21st February, 2024

No. 397197-HIII(2)-2024/2316.—Vide Notification bearing No. 397197-HIII(2)-2024/1778-1784 dated 12.02.2024, a State Level Steering Committee was constituted for successful implementation of the three Criminal Laws namely (i) Bharatiya Nyaya Sanhita-2023; (ii) Bharatiya Nagarik Suraksha Sanhita-2023, and (iii) Bharatiya Sakshya Adhiniyam-2023, which will replace the Indian Penal Code-1860, the Code of Criminal Procedure-1973, and the Indian Evidence Act-1872.

(2) Now, the Administrator, Union Territory, Chandigarh is hereby modify the composition of State Level Steering Committee, which is as under :-

- | | | |
|---|----|-----------------|
| 1. Adviser to the Administrator, UT, Chandigarh | .. | Chairman |
| 2. Home Secretary, Chandigarh Administration | .. | Member |
| 3. Director General of Police, UT, Chandigarh | .. | Member |
| 4. Inspector General (Prisons) UT, Chandigarh | .. | Member |
| 5. Registrar General, Punjab & Haryana High Court, Chandigarh | .. | Member |
| 6. District & Sessions Judge, Chandigarh | .. | Member |
| 7. Deputy Commissioner-cum-District Magistrate, UT Chandigarh | .. | Member |
| 8. Senior Superintendent of Police , UT, Chandigarh | .. | Member Convener |
| 9. Legal Remembrancer-cum-Dir. of Prosecution, UT, Chandigarh | .. | Member |
| 10. Director, Central Forensic Science Laboratory, Chandigarh | .. | Member |
| 11. State Informatics Officer, NIC, Chandigarh | .. | Member |

(3) The Member Convener will timely collect the information from the concerned and will submit its reports alongwith recommendations to the Chairman of the Committee.

Signature Not Modified
Digitally signed by
Jalinder Kumar
Date: 2024.02.28
09:49:24 +05'30'
Reason: I am the author
Location: Chandigarh

Chandigarh :

The 19th February, 2024.

RAJEEV VERMA, IAS,
Adviser to the Administrator,
Union Territory, Chandigarh.

(479)

This is Digitally Signed Gazette. To verify, visit :
<https://egazette.chd.gov.in>

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 13th February, 2024

No. 13/1/9743-HII(2)-2024/2461.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **23/2020** dated **06.11.2023** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

SANDEEP KUMAR S/O SH. SATPAL R/O HOUSE NO.144, STREET NO.9, ADARSH NAGAR, SIRHIND, DISTRICT FATEHGARH SAHIB. (Workman)

AND

1. M/S DAINIK BHASKAR CORPORATION LIMITED, PLOT NO.280, SARKHEJ GHANDINAGAR HIGHWAY, NEAR YMCA CLUB, MAKARBA, AHMEDABAD, GUJARAT - 380051 THROUGH ITS MANAGING DIRECTOR.
2. M/S DAINIK BHASKAR CORPORATION LIMITED, CHANDIGARH UNIT, PLOT NO.11-12, GROUND FLOOR, SECTOR 25, CHANDIGARH - 160036 THROUGH ITS AGM HR & ADMN. (Management)

AWARD

1. Vide Endorsement No.13/1/9743-HII(2)-2020/6458 Dated 20.05.2020 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court/Tribunal on the claim application filed by Sandeep Kumar (*hereinafter referred "claimant"*) to the M/s Dainik Bhaskar Corporation Limited & Another (*hereinafter referred "management"*) under Section 17(1) of the Working Journalists & Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955 (*hereinafter in short referred "Act 1955"*) in following words :—

"Whether the arrears of revision of pay to Sh. Sandeep Kumar son of Sh. Satpal, resident of House No.144, Street No.9, Adarsh Nagar, Sirhind, District Fatehgarh Sahib (Workman/ applicant) were to be paid by M/s Dainik Bhaskar Corporation Limited, Plot No.280, Sarkhej Ghandinagar Highway, Near YMCA Club, Makarba, Ahmedabad, Gujarat - 380051 through its Managing Director and M/s Dainik Bhaskar Corporation Limited, Chandigarh Unit, Plot No.11-12, Ground Floor, Sector 25, Chandigarh - 160036 through its AGM HR & Admn. (Managements) according to the recommendations of the Majithia Wage Board and also as per the direction of the Hon'ble Supreme Court of India under The Working Journalists And Other Newspaper Employees (Conditions of Service) And Miscellaneous Provision Act, 1955 and in compliance of the orders dated 28.04.2015, 12.01.2016, 14.03.2016, 23.08.2016 passed by the Hon'ble Supreme Court of India in CCP No.128/2015 and 129/2015 AND WP (Civil) 246/2011 dated 07.02.2014; if so, to what effect and to what relief he is entitled to, if any ?"

2. Upon notice, the claimant-workman appeared through his Representative Shri Ajay Sharma. Statement of claim was filed on 26.03.2021.

3. Briefly stated the averments of claim statement are that the claimant was working as Assistant Electrical Engineer with Dainik Bhaskar Newspaper having its registered office at Sector 25, Chandigarh. On

account of revision of pay & other allowances accrued on the acceptance of the recommendations of the Majithia Wage Board which were accepted by the Government of India and notified in the Gazette of India on 11.11.2011, a substantial amount is due from Dainik Bhaskar / employer which is denied. On account of fact that a large number of persons are employed in the various newspapers and periodical being published in India and such newspaper or periodical establishment had devised its own way of employing persons to run its working, the Government of India constituted the Press Commission to enquire into the conditions of employment of working journalists. The Press Commission made certain recommendations for improvement and regulation of such service conditions by means of legislation. Accordingly, The Working Journalists (Conditions of Service) and Miscellaneous Provisions Bill was introduced in the Parliament. Consequently, on 20.12.2015 the Act 1955 was enacted to regulate certain conditions of service including minimum period of notice, gratuity, provident fund, settlement of industrial dispute, leave with pay, hours of work and minimum wages of the Working Journalists and the other persons employed in the Newspaper Establishments. From the harmonious joint reading of the provisions of the Act 1955, it is apparent that the Central Government has been competent to fix and revise the wages of the journalists and other employees having been governed by the Act 1955. A procedure has been laid down for fixing and revising rate of wages for which a mandate is casted upon the Central Government to constitute a Wage Board in the manner prescribed in it, which shall examine all the relevant factors like cost of living, the prevalent rate of wages for comparable employment etc. for the ascertainment of the rate of wages and thereafter present its recommendation to the Central Government. On the receipt of such recommendation by the Wage Board, the Central Government is also competent to accept, reject and alter any of the recommendations as may deemed fit. Consequently, the Central Government shall notify the recommendations by way of an Award in the official Gazette of India. In pursuance to an exercise undertaken by Department of Labour and Employment, Union of India under Section 9 of Act 1955, the purpose of enabling the Central Government to fix or revise rate of wages for the working journalists and non-journalists newspaper employees, a Wage Board was constituted under the Chairmanship of Hon'ble Mr. Justice G. R. Majithia (Retd.) and the Wage Board was commonly known as Majithia Wage Board. After examining all the relevant factors regulating the revision of pay and affording opportunity to all the affected parties, the Majithia Wage Board finally submitted its recommendations on 31.12.2010 to the Union of India. On 25.10.2011 the Union of India accepted the same in toto without any modification. The said recommendations were further notified in the official Gazette vide notification dated 11.11.2011. On the publication of the recommendation of the Majithia Wage Board by way of an Award vide Gazette Notification dated 11.11.2011, various newspaper establishments and media houses vide W.P. (C) No.538 of 2011 had made a challenge under Article 32 of the Constitution of India before the Hon'ble Supreme Court of India alleging Act 1955 being ultra-virus as it infringes the fundamental rights guaranteed under Article 14, 19(1)(a) and 19(1)(g) of the Constitution of India. There was also a challenge to the validity of notification dated 11.11.2011 issued by the Union of India. The bunch of aforesaid petitions remained pending for hearing before the Hon'ble Apex Court for 3 years and ultimately while disagreeing with the contentions raised by the newspaper establishments and media houses, the Hon'ble Apex Court dismissed all the petitions vide its judgment dated 07.02.2014 while holding that the recommendations of Majithia Wage Board are valid in law, based on genuine and acceptable considerations and there is no valid ground for interference under Article 32 of the Constitution of India. Despite the dismissal of the Writ Petitions challenging the validity of Act 1955 and notification dated 11.11.2011, and further directions of the Hon'ble Apex Court for payment of arrears, no compliance was being made by the news agencies. The employees had also taken up their issue before the management No.1 & 2 for payment of revised wages and arrears as per the directions of the Hon'ble Apex Court, however, they were told that a review application have been preferred by them and further course of action would be taken up after its adjudication. Another order dated 13.10.2017 was passed by the Hon'ble Apex Court clarifying the previous judgment dated 19.06.2017 to the extent that the disputes referred to adjudication under Section 17(2) of the Act 1955, will be disposed of by the concerned Labour Court / Industrial Tribunal as expeditiously as possible preferably within six months of the reference being made.

4. It is further averred that the claimant was appointed as Assistant Electrical Engineer in the Dainik Bhaskar Newspaper at Sirhind on 03.03.2010. The salary of the claimant was fixed @ ₹ 5,549/- per month including all perks and allowances. Initially he was on probation for 6 months and later on his services were regularised. Work & conduct of the claimant has been further appreciated in as much as the service record of the claimant has been exemplary good as no complaint whatsoever has ever been reported to the management from any quarter. The claimant has been earning his annual increments well on time apart from the annual bonus. The services of the claimant were being regulated under the Act 1955. On minute perusal of the notification, it is apparent that employees have been categorised in groups and as such the claimant falls within the ambit of Group 1 Factory Staff of the Schedule - III (Grouping of Non-journalists Newspaper Employees - Factory Staff). In the month of April, 2019 the claimant along with other employees has also been cautioned by the management that in case, they press upon their demand of recovery of dues, then they would be either transferred at other far distant places or their services would be terminated. Despite above, the claimant had been pressing his request of payment of arrears of salary as per the Majithia Wage Board recommendations upon the management No.2, however, management No.2 started harassing the claimant by rejecting his leave applications, deploying at odd places, giving work out of his job profile and letting the claimant jobless for days together. Still the claimant has been continuously discharging his duties till date. The claimant is the only bread winner of his family and as such the entire family has been depending upon legitimate arrears of the claimant which is to be paid by the managements. The amount which is liable to be recovered from the management based on revised pay on the basis of Majithia Wage Board is legitimate dues of the claimant and as such the claimant is not willing to forego the same in any manner. The claimant has got calculated his estimate revised salary and arrears of pay from a competent Chartered Accountant as per the Majithia Wage Board recommendations w.e.f. 11.11.2011 to 23.07.2020, as such the total amount of ₹ 66,74,957/- including interest @ 18% per annum is due from the management. Despite the demand of detailed arrears of salary calculated as per Majithia Wage Board recommendations w.e.f. 11.11.2011 to 23.07.2020, the management has intentionally and deliberately not been implementing the recommendations of the Majithia Wage Board and has not given any benefit to the claimant in spite of several oral and written requests. The claimant has not signed any declaration in order to waive of the benefits accrued under the Majithia Wage Board recommendations. The management had indulged in the process of denying the claims stating that the recommendations of the wage board were not applicable on the claimant and other employees and forcing the employees to sign on pre-typed formats and declarations illegally. The employees refusing to do so were being victimized by way of illegal transfer, suspension and other colourable exercise of the powers of the management and a reign of terror inside the establishment had been created by the management. The management be asked to furnish the details of the salary paid to the employee of the establishment before 07.02.2014 and being paid now and the reasons for non-implementation of the recommendations of the Majithia Wage Board by the management. The present claim is without prejudice to the rights of the claimant to the Contempt of Court proceedings against the management for its deliberate, willful and intentional violation of the order dated 07.02.2014 of Hon'ble Supreme Court. The cause of action of the claimant is continuous. As such, the present claim is being filed within period of limitation. The claimant has not filed any other claim or petition before any Court of Law except the present one. The claim application is accompanied with calculation sheet Annexure 'A3'. Prayer is made that Award may be passed directing the managements to implement the Majithia Wage Board recommendations and re-fix the pay of the claimant accordingly with further prayer directing the managements to release arrears of pay to the tune of ₹ 66,74,957/- as per Annexure 'A3' with costs and to pay interest @ 18% on the arrears of pay from the date of its accrual till actual payment.

5. On notice, the management No. 1 & 2 contested the claim application by filing joint written statement on 30.07.2021 wherein preliminary objections are raised on the ground that the workman filed the fresh reference claiming re-fixation of pay and for recovery of ₹ 66,74,957/- as arrears of pay up to 01.02.2021 on account of

implementation of recommendations of the Majithia Wage Board vide notification dated 11.11.2011 issued by Central Government by putting the wrong facts as well as by levelling the false allegations and by presenting the fabricated calculation sheet before this Tribunal. The claimant does not fall under the definition of the 'workman' as per Section 2(s) (ii to iv) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*). The claimant has failed to claim himself as workman as per the provisions of the ID Act. As per the nature and status of post, the claimant does not fall within the definition of the 'workman' under the ID Act. The claim statement is liable to be dismissed on account of mis-joinder of the necessary parties as the alleged service rendered by the claimant with the answering management i.e. Chief Manager, HR (who has not been impleaded as party in the present reference) and authorities of Head Office have been impleaded by name. As per the facts, the recommendations of Majithia Wage Board were submitted to the Central Government on 31.12.2010 and same were notified by the Government of India on 11.11.2011. The said recommendations were put under challenge by various media agencies by way of filing the writ petitions before the Hon'ble Supreme Court of India and the said cases were adjudicated upon before the Hon'ble Supreme Court of India in February 2014. It is further stated that the submission of resignation is admitted by the claimant himself. It is well settled proposition of law that admission is the best evidence. Besides, the claimant had concealed the material fact that at the time of leaving the managements after putting the resignation, had accepted all the service benefits and received full & final amount from the managements and nothing remained pending / due and as such the present claimant has no right to contest the present reference being not maintainable. The procedure under the scheme of the Act 1955, aggrieved employee seeking to recover any amount under the Act 1955, is required to first move an application before the State Government. As per Rule 36 of the Act 1955, such an application is required to be made in prescribed Form 'C' addressed to the Secretary to the State Government along with the details of the amount claimed, preceded by a 15 days prior notice regarding payment to the concerned newspaper establishment. In this case, the above said requirement of Rule 36 of the Act 1955 has not been complied with. Hence, the proceeding in question is void ab-initio. As per Section 17 of the Act 1955, a Civil Suit does not lie after the expiry of 3 years of the cause of action. In the present case, the demand notice was received by the Assistant Labour Commissioner, Chandigarh in February 2020 for the benefit claimed by the claimant for the year 2011. The claimant has annexed the calculation sheet showing the turn-over of the management only to get the benefit from the management which is a dispute in question of fact and cannot be decided in summary proceedings before this Tribunal. A dispute in question of fact can only be adjudicated upon by the concerned Civil Court. The basis of computation of the amount claimed has not been indicated by the claimant. The identity of the person who has computed the said amount has not been revealed by the claimant. Hence, the same is frivolous and baseless. The answering managements do have the spirit to honour the judgment delivered by the Hon'ble Supreme Court of India but in the present reference the claimant is not entitled to any benefit in compliance of the judgments delivered by the Hon'ble Supreme of India. No amount is due to the claimant under the provisions of Section 17 of the Act 1955. Further the amount claimed is based on non-existing right. The management has fully complied with the provisions of Majithia Wage Board issued by the Central Government under notification dated 11.11.2011. The claimant had already received the wages as per para 20(j) of the Majithia Wage Board recommendations. The claimant has voluntarily chosen / opted to retain his existing wages and existing emoluments as per para 20(j) of the Majithia Wage Board. Now nothing is payable to the claimant. The claimant had never raised any question nor made any complaint to the management or to any competent authority regarding the undertaking which he had given within the specified time of 3 weeks. Now after lapse of long time the claimant is raising dispute of non-payment of wages as per the Majithia Wage Board recommendations which is a simply after thought, illegal and baseless. The employees were informed about the Majithia Wage Board recommendations and para 20(j) of the same for payment of the existing pay scale and existing emoluments by affixing copy of the Majithia Wage Board recommendations and notice on the notice board of the company. The applicant-claimant had already received the wages as per para 20(j) of the Majithia Wage Board recommendations and has chosen /

opted to retain his existing wages and existing emoluments as per para 20(j) of the Majithia Wage Board recommendations. The management of DB Corp. Ltd. is a group of businesses including textile, MyFM, digital media, real estate, power and denim. As per the Majithia Wage Board recommendations only the business of newspaper establishment i.e. circulation and advertisement of newspaper shall be counted.

6. Further on merits, the contents of para 1 to 5, 7 & 8 are replied being matter of record. It is further stated that the claimant is not entitled for the benefit of compliance of judgment passed by the Hon'ble Supreme Court of India. As per the group of the claimant and class of the Newspaper Establishment the claimant is receiving the wages and other benefits more than the Majithia Wage Board recommendations. It is specifically denied that the claimant is entitled for revised salary and pay from the management based on the Majithia Wage Board for the period 11.11.2011 to 01.02.2021. The claimant is not entitled for any financial benefits as well as interest and the claim put forth by the claimant is not a very higher side. The claim is not maintainable in the question-answer form. No cause of action has accrued to the claimant to file the present claim and the same is hopelessly time barred. Rest of the averments of claim statement are denied as wrong. Prayer is made that the reference may be dismissed with exemplary cost.

7. The claimant filed replication wherein the contents of the written statement except admitted facts are denied being without any basis and frivolous and averments of claim statement are reiterated.

8. From the pleadings of the parties, following were framed vide order dated 16.08.2021:—

1. Whether the arrears of revision of pay to the applicant are to be paid by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Whether the applicant does not fall under the definition of 'workman' as defined under Section 2(s) of the ID Act ? OPM
3. Whether the claim of the applicant is bad on the ground of mis-joinder and non-joinder of necessary parties ? OPM
4. Whether the claim of the applicant is time barred ? OPM
5. Whether the claim of the applicant is not maintainable under the provisions of Section 17 of the Working Journalists & Other Newspaper Employees (Condition of Services) and Miscellaneous Provisions Act, 1955 ? OPM
6. Relief.

9. In evidence claimant Sandeep Kumar examined AW1 Dhruv Gupta, Chartered Accountant, who tendered his affidavit Exhibit 'AW1/A' along with documents Exhibit 'AW1/1' to Exhibit 'AW1/3'.

Exhibit 'AW1/1' is copy of email whereby documents of claimant Sandeep Kumar were sent to Dhruv Gupta.

Exhibit 'AW1/2' is copy of Form 23-ACA, pursuant to Section 220 of the Company's Act, 1956.

Exhibit 'AW1/3' is the calculation sheet of estimated gross salary as per Majithia Wage Board prepared by Dhruv Gupta, Partner for DGR & Associates Chartered Accountants.

10. The claimant examined himself as AW2 and tendered his affidavit Exhibit 'AW2/A' along with copy of documents Exhibit 'AW2/1' and Exhibit 'AW2/2'.

Exhibit 'AW2/1' is Gazette Notification dated 11.11.2011 of Government of India, Ministry of Labour & Employment.

Exhibit 'AW2/2' is calculation sheet of estimated gross salary as per Majithia Wage Board prepared by Chartered Accountant Dhruv Gupta.

11. The claimant also examined AW3 Avdhesh Gaur, who brought the summoned record and proved the copy of the same Exhibit 'AW3/1' to Exhibit 'AW3/5'.

Exhibit 'AW3/1' is appraisal letter dated 28.05.2014 with revised CTC structure w.e.f. 01.04.2014.

Exhibit 'AW3/2' is appraisal letter dated 29.07.2015 of the claimant for the financial year 2014-15 with Annexure 'A'.

Exhibit 'AW3/3' is appraisal letter dated 31.05.2016 of the claimant for the financial year 2015-16 with Annexure 'A'.

Exhibit 'AW3/4' is appraisal letter dated 30.04.2019 of the claimant for the financial year 2018-19 with Annexure 'A'.

Exhibit 'AW3/5' is demand draft of gratuity amount of ₹ 72,692/- dated 01.10.2020 in favour of the claimant

12. On 05.12.2022 the Learned Representative for the claimant closed the evidence.

13. On the other hand, the managements examined MW1 Avdhesh Gaur - Assistant Manager HR Admn (CPH2), Office of Dainik Bhaskar, Chandigarh who tendered his affidavit Exhibit 'MW1/A' along with copies of documents Exhibit 'M1' to Exhibit 'M9'.

Exhibit 'M1' is identity card of Avdhesh Gaur.

Exhibit 'M2' is authority letter dated Nil issued in favour of Avdhesh Gaur by Shri Sanjay Gupta - Authorised Signatory DB Corp. Ltd.

Exhibit 'M3' is separation request with acceptance.

Exhibit 'M4' is full & final payment slip for the month of July 2020.

Exhibit 'M5' is cheque No.809836 dated 24.07.2020 for sum of ₹ 36,353/- drawn of IDBI Bank in favour of Sandeep Kumar.

Exhibit 'M6' is gratuity payment advice dated 08.10.2020.

Exhibit 'M7' demand draft No.016449 dated 01.10.2020 for the sum of ₹ 72,962/- drawn in favour of Sandeep Kumar.

Exhibit 'M8' is declaration-cum-unattested affidavit dated 17.10.2020.

Exhibit 'M9' is declaration dated 15.11.2011 of Sandeep Kumar.

14. MW1 Avdhesh Gaur in his cross-examination has brought copy of notice dated 12.11.2011 vide Exhibit 'MX'. It is pertinent to mention here that Exhibit 'MW1/A' is numbered twice i.e. affidavit of MW1 Avdhesh Gaur is number as Exhibit 'MW1/A' and declaration dated 15.11.2011 put by the management to AW3 in his cross-examination as Exhibit 'MW1/A'. Further Exhibit 'M3' is numbered twice i.e. separation request detail of claimant Sandeep Kumar is Exhibit 'M3' and hard copy of email accompanied with resignation letter dated 01.10.2018 of Ashwani Kumar Sharma is Exhibit 'M3'. In order to avoid any ambiguity, the affidavit of MW1 is renumbered and hereafter referred as 'MW1/AA' and hard copy of email accompanied with resignation letter dated 01.10.2018 is renumbered and hereinafter referred as Exhibit 'M3/1'.

15. On 14.08.2023 Learned Representative for the management No.1 & 2 closed oral evidence. On 06.11.2023 Learned Representative for management No.1 & 2 closed documentary evidence.

16. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise findings are as below:-

Issue No. 1:

17. Onus to prove issue No.1 is on the workman.

18. Under this issue, the claimant Sandeep Kumar examined himself as AW2 and vide his affidavit Exhibit 'AW2/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity. AW2 has supported his oral version with documents Exhibit 'AW2/1' and Exhibit 'AW2/2'.

19. In order to prove the calculation of the arrears claimed, claimant examined AW1 Dhruv Gupta - Chartered Accountant and Partner of the DRG and Associates Firm, who vide his affidavit Exhibit 'AW1/A' has proved that the calculation sheet prepared by him. AW1 has supported his oral version with documents Exhibit 'AW1/1' to Exhibit 'AW1/3' (as detailed).

20. The claimant has examined AW3 Avdhesh Gaur - Assistant Manager, HR Admn. Deptt. Dainik Bhaskar, Sector 25-D, Chandigarh, who proved on record documents Exhibit 'AW3/1' to Exhibit 'AW3/5'.

21. On the other hand, the management has examined MW1 Avdhesh Gaur - Assistant Manager, HR Admn Deptt. Dainik Bhaskar, Sector 25-D, Chandigarh. (MW1 in his testimony referred the management as respondent and in cross-examination of AWs referred the claimant as workman. In order to avoid any ambiguity the workman is hereinafter referred as claimant and the respondent is hereinafter referred as management.) MW1 vide his affidavit Exhibit 'MW1/A' deposed that he is working as Assistant Manager - HR & Admin (CPH2) with the managements and has been authorised by the management to depose on its behalf in this case before this Court. He is well conversant with the facts of the present case. MW1 further deposed that DB Corp. Ltd. is group of businesses including textile, MY FM, Digital Media, Real Estate, Power, Denim. As per Majithia Wage Board recommendations only the business of newspaper establishment i.e. circulation and advertisement of newspaper shall be counted and all the units have independent existence and the accounts of each unit are being prepared by that unit. The claimant had concealed the material fact that at the time of leaving the managements after putting the separation request on HRD Portal dated 09.06.2020 had accepted all the service benefits and also has received full & final amount from the managements and nothing remaining pending / due and as such the present claimant has no right to contest the present claim petition being not maintainable. The management has fully complied with the provisions of Majithia Wage Board issued by the Central Government under notification dated 11.11.2011. The claimant had already received the wages as per Para 20(j) of the Majithia Wage Board recommendations. The claimant has chosen / opted to retain his existing wages and existing emoluments as per Para 20(j) of the Majithia Wage Board at his own voluntarily by signing a declaration dated 15.11.2011 and after signing the declaration, now nothing is payable to the applicant as he has already received wages according to option opted by him as per Para 20(j) and opted to retain his current salary and emoluments at that time. All the employees working have given their signatures on option letter as per their will and submitted it to the management. MW1 further deposed that the claimant is not entitled for the benefit of the compliance of the judgment passed by the Hon'ble Supreme Court of India. MW1 has supported his oral version with documents Exhibit 'M1' to Exhibit 'M9'.

22. From the oral as well as documentary evidence led by the parties, it comes out that undisputedly the claimant was appointed as Assistant Electrical Engineer in the Dainik Bhaskar Newspaper on 03.03.2010. The salary of the claimant was fixed @ ₹ 5,549/- per month including all perks and allowances. After completion of probation period of six months, the services of the claimant were regularised. The fact remained undisputed between the parties that during the pendency of the present case the claimant had tendered resignation in

the form of separation request on 09.06.2020 which was accepted by the management. AW2 / Sandeep Kumar in his cross-examination admitted as correct that he resigned subsequent to filing of the present case. The claimant's witness AW3 Avdhesh Gaur in his cross-examination admitted as correct that the workman due to his personal reasons has submitted his resignation which was accepted by the Reporting Manager of the workman.

23. In the present case, the claimant is demanding arrears of pay as revised according to the recommendations of the Majithia Wage Board w.e.f. 11.11.2011 to 23.07.2020 as per notification dated 11.11.2011 / Exhibit 'AW2/1'. On the other hand, the managements have taken the plea that in view of the option exercised by the claimant under para 20(j) of the notification dated 11.11.2011, the claimant is not entitled to seek benefits of the Majithia Wage Board recommendations.

24. To my opinion, in order to decide whether para 20(j) of notification dated 11.11.2011 is attracted in this case, it would be apposite to go through para 20(j) of the said notification, which is reproduced as below:-

"20(j) The revised pay scales shall become applicable to all employees with effect from 1st July 2010. However, if an employee within three weeks from the date of publication of Government Notification under Section 12 of the Act enforcing these recommendations exercises his option for retaining his existing pay scales and "existing emoluments", he shall be entitled to retain his existing scale and such emoluments."

25. In cross-examination of AW2 Sandeep Kumar, the management had put declaration dated 15.11.2011 vide Exhibit 'M1' and in cross-examination of AW3 Avdhesh Gaur, the management has put declaration dated 15.11.2011 / Exhibit 'MW1/A'. The management in its evidence also proved the claimant's declaration dated 15.11.2011 vide Exhibit 'M9'. Learned Representative for the claimant argued that declaration Exhibit 'M1' / Exhibit 'MW1/A' / Exhibit 'M9' is not valid in the eyes of law as it does not bear any passing reference of the designation, employee code, department and place of posting etc. The said declaration is not addressed to any official, countersigned or signed by any witness, without verification, acceptance, place not mentioned and not even attested by any notary. There is no passing reference of the existing wages of the claimant, the said declaration is not voluntarily and has been obtained under duress and under threat of transfer / termination. It is also apparent that cyclostyle pre-typed declaration is prepared and signed by the claimant in as much as only blanks are filled by the claimant. It is further argued by Learned Representative for the claimant that the declaration is two-sided legal transaction which means there has to be a second party to the declaration. In the present case, the alleged declaration is only signed by the claimant and there is no reference to whom the same is given, furnished. There is no counter-signature of the authority who had accepted it. On the other hand, it is argued by Learned Representative for the management that the declaration dated 15.11.2011 i.e. Exhibit 'M1' / Exhibit 'MW1/A' / Exhibit 'M9' is a valid document and by way of exercising option in the form of above said declaration, the claimant has chosen / opted to retain his existing wages and existing emoluments as per para 20(j) of the Majithia Wage Board Recommendations notified on 11.11.2011. Therefore, nothing is payable to the claimant as he has already received wages according to the option opted by him under para 20(j) of the Majithia Wage Board Recommendations notified on 11.11.2011. It is further argued by Learned Representative for the management that the declaration Exhibit 'M1' / Exhibit 'MW1/A' / Exhibit 'M9' is of dated 15.11.2011 and till date the claimant has not withdrawn the same alleging that it was obtained under pressure. Much stress has been laid upon the fact that the claimant has not withdrawn the said declaration as it was genuine and signed by him with his free consent. Learned Representative for the managements referred case law reported in **1996(3) SCT 597** titled as **V. M. Gadre (Dead) by LRs Versus M.G Diwan** and **2005(8) SCC 49** titled as **State of Uttranchal Versus Jagpal Singh Tyagi**.

26. To my opinion, the argument advanced by the Learned Representative for the claimant that declaration Exhibit 'M1' / Exhibit 'MW1/A' / Exhibit 'M9' is signed by the claimant under pressure of illegal transfer, suspension is devoid of merits because the claimant / AW2 when put to cross-examination stated that he identify his signatures on declaration dated 15.11.2011 and copy of same is Exhibit 'M1'. AW2 voluntarily stated that he did not sign on 15.11.2011. He signed the same in the year 2015. AW2 in his cross-examination has taken the plea that declaration Exhibit 'M1' is ante-dated as the same is actually got signed in the year 2015 instead of 15.11.2011. To my opinion the aforesaid plea of the claimant would suggest that the claimant admits his signatures on declaration dated 15.11.2011 Exhibit 'M1' / Exhibit 'MW1/A' / Exhibit 'M9'. The claimant's plea that his signatures on the declaration were obtained subsequently in the year 2015 is not acceptable as no such plea is raised by the claimant in his claim statement. To the contrary it is pleaded in the claim statement that claimant has not signed any declaration / settlement with any of the managements whatsoever in order to waive off the benefits accrued under the Majithia Wage Board recommendations. In this manner, there is a complete denial of signing any declaration by the claimant in his claim statement. Both the pleas raised by the claimant i.e. non-signing of any declaration and obtaining his signature on declaration in the year 2015 are self-contradictory and destructive to each other. Moreover, till date the claimant has not withdrawn his declaration alleging that same is ante-dated. In this regard AW2 in his cross-examination stated that till date he did not withdraw the declaration Exhibit 'M1'. From the aforesaid version of AW2 it is duly proved on record that the declaration dated 15.11.2011 / Exhibit 'M1' / Exhibit 'MW1/A' / Exhibit 'M9' is signed by the claimant with his free will and consent. The claimant's plea that cyclostyle pre-typed declaration is prepared and signed by the claimant in as much as only blanks are filled by the claimant is also devoid of merits. There is no illegality, even if, the managements for the convenience of its employees supplied a proforma to exercise option under para 20(j) of notification dated 11.11.2011. It is for the concerned employee herein claimant to fill-in the proforma by exercising his own discretion. It is not the requirement of para 20(j) of notification dated 11.11.2011 that the declaration must be countersigned by the employer or second party. Moreover, claimant's own witness AW3 Avdhesh Gaur in his cross-examination admitted as correct that during his service with the management the claimant has signed a declaration dated 15.11.2011, copy of same is Exhibit 'MW1/A'. At the time of recording evidence, the original of MW1/A' was produced which was seen and returned. MW1 further admitted as correct that Exhibit 'MW1/A' is part of the service guidelines of the claimant. Besides, Avdhesh Gaur when examined himself as MW1 in his cross-examination stated that he has also given similar declaration while joining the service. His signatures were not obtained on any blank paper by the management at the time of joining of his service. MW1 admitted as correct that all the employees / officials have given the declaration under 20(j) and no one has opted for revised wages as per recommendations of Majithia Wage Board. From the cross-examination of MW1 referred above, nothing favourable to the claimant has come on record. Moreover, the claimant has failed to controvert the fact that before obtaining option under para 20(j) of notification dated 11.11.2011 the management had put the notice dated 12.11.2011 / Exhibit 'MX' on the notice board to apprise its employees about their right to exercise the option. MW1 Avdhesh Gaur in his cross-examination has brought copy of notice dated 12.11.2011 vide Exhibit 'MX'. MW1 has denied the suggestion as wrong that notice is prepared afterwards. As per the settled law the suggestion denied by a witness is no evidence unless proved otherwise. The claimant has failed to bring on record any evidence to controvert the genuineness of notice Exhibit 'MX'.

27. From Exhibit 'M3' it is duly proved on record that the claimant on 09.06.2020 tendered resignation on the ground of family issues, requesting therein that he cannot continue due to family problem and the same was accepted by the management. The claimant has admittedly received his full & final settlement at the time of resignation from his services. In this regard, AW2 Sandeep Kumar in his cross-examination admitted as correct that after his resignation, his accounts were settled in full & final by the management. AW1 admitted as correct that he has received the payment of ₹ 36,393/- and ₹ 72,692/- towards full & final

settlement including the arrears and gratuity by executing declaration / affidavit dated 17.10.2020 on which he identifies his signatures and copy of the same is Exhibit 'M4'. AW2 voluntarily stated that apart from Exhibit 'M4' he signed another document claiming benefits of Majithia Wage Board. AW2 denied the suggestion as wrong that his volunteer statement is incorrect. To my opinion, the volunteer statement of AW2 that apart from Exhibit 'M4' he signed another document claiming benefits of Majithia Wage Board does not stand proved as the claimant did not bring into evidence copy of any such document whereby at the time of receiving full & final payment he claimed the benefits of Majithia Wage Board. AW2 in his cross-examination further stated that he did not receive any salary or any benefit under protest and he did not reserve his right to claim the benefits of Majithia Wage Board recommendation. Admittedly, the claimant / AW2 has resigned during the pendency of the present case but the claimant in his affidavit Exhibit 'AW2/A' did not disclose the fact that he resigned from his service and received full & final payment without any protest. In this regard, AW2 in his cross-examination admitted as correct that he has filed his affidavit Exhibit 'AW2/A' after his resignation. AW2 admitted as correct that in his affidavit Exhibit 'AW2/A' he did not mention about the receipt of full & final payment, resignation and working in supervisory capacity. From the aforesaid version of AW2 it is duly proved on record that the claimant has voluntarily exercised option under para 20(j) of the Majithia Wage Board recommendations by way of declaration dated 15.11.2011 / Exhibit 'M1' / Exhibit 'MW1/A' / Exhibit 'M9' and voluntarily resigned from his service by way of resignation tendered on 09.06.2020 and thereafter issued receipt of full & final payment in the form of declaration / affidavit Exhibit 'M4' without any protest and without reserving any right to claim benefits of the Majithia Wage Board recommendations. Therefore, the claimant is estopped from seeking the arrears of revised pay as calculated by the Chartered Accountant. The case law referred by Learned Representative for the managements reported in **1996(3) SCT 597** titled as **V. M. Gadre (Dead) by LRs Versus M.G. Diwan** and **2005(8) SCC 49** titled as **State of Uttranchal Versus Jagpal Singh Tyagi** are applicable to the present case to an extent.

28. In view of the aforesaid discussion, the claimant is not entitled to receive arrears of revised pay.

29. Accordingly, this issue is decided against the claimant-workman and in favour of the management No.1 & 2.

Issue No.2:

30. Onus to prove this issue is on the managements.

31. Learned Representative for the management argued that the claimant does not fall within the definition of the 'workman' as defined under Section 2(s) of the ID Act as the nature of the work assigned to the claimant was supervisory. On the other hand, Learned Representative for the claimant argued that the claimant was not having any managerial or supervisory position. The claimant was not having any power to appoint / dismiss any employee and also had no power to grant leave to any employee. To support his arguments Learned Representative for the claimant referred case law reported in **2006(4) SCT 1** titled as **Anand Regional Co-op. Seedgrowers Union Ltd. Versus Shaileshkumar Harshadbhai Shah** in para 11 to 13 held as below :-

"11. For determining the questions as to whether a person employed in an industry is a workman or not; not only the nature of work performed by him but also terms of the appointment in the job performed are relevant considerations.

12. Supervision contemplates direction and control. While determining the nature of the work performed by the employee, the essence of the matter should call for consideration. An undue importance need not be given for the designation of an employee, or the name assigned to, the class to which he belongs. What is needed to be asked is as to what are the primary duties he performs. For the said purpose, it is necessary to prove that there were

some persons working under him whose work is required to be supervised. Being incharge of the section alone and that too it being a small one and relating to quality control would not answer the test.

13. *The precise question came up for consideration in **Ananda Bazar Patrika (P) Ltd. v. Workmen [(1970)3 SCC 248]** wherein it was held :*

"The question, whether a person is employed in a supervisory capacity or on clerical work, in our opinion, depends upon whether the main and principal duties carried out by him are those of a supervisory character, or of a nature carried out by a clerk. If a person is mainly doing supervisory work, but, incidentally or for a fraction of the time, also does some clerical work, it would have to be held that he is employed in supervisory capacity; and, conversely, if the main work done is of clerical nature, the mere fact that some supervisory duties are also carried out incidentally or as a small fraction of the work done by him will not convert his employment as a clerk into one in supervisory capacity.....

A person indisputably carries on supervisory work if he has power of control or supervision in regard to recruitment, promotion, etc. The work involves exercise of tact and independence.

Judging by the said standard, we are of the opinion that the First Respondent did not come within the purview of the exclusionary clause of the definition of workman. Ananda Bazar Patrika (supra) was followed by the court in large number of cases."

32. In the present case, it is undeniable fact that the claimant was appointed to the post of Assistant Electrical Engineer and subsequently promoted to the post of Electrical Engineer. AW2 / Sandeep Kumar in his cross-examination stated that he was appointed on the post of Assistant Electrical Engineer and at the time of resignation he was working as Electrical Engineer. AW2 admitted as correct that some of the employees were working under him who used to report him. AW2 admitted as correct that the official Surinder Pal sent him his request through email dated 19.04.2020 for grant of leave and hard copy of email is Exhibit 'M2'. AW2 further admitted as correct that the official Ashwani Sharma sent him his resignation letter through email dated 03.10.2018 for its approval and hard copy of email is Exhibit 'M3/1'. AW2 further stated that at the end of his service he was working in supervisory capacity with Dainik Bhaskar. AW2 denied the suggestion as wrong that he does not fall within the definition of the 'workman' under Section 2(s) of the ID Act. To my opinion, from the cross-examination of AW2 referred above it is duly proved on record that the claimant was exercising powers of control and supervision at the time when he resigned. It is immaterial that the claimant at the end of his service exercised supervisory power for a short duration. The law laid down in the judgment **2006(4) SCT 1 (supra)** is well recognised by this Court but as per the ratio of the ruling, the claimant does not fall within the definition of the workman as defined in Section 2(s) of the ID Act, thus not applicable to the facts of the present case.

33. Accordingly, this issue is decided in favour management No. 1 & 2 and against the claimant-workman.

Issue No. 3 &5:

34. Both these issues are taken up together being inter-connected and in order to avoid repetition of discussion.

35. Onus to prove both these issues is on the managements. During course of arguments both these issues are not pressed by the managements.

36. Accordingly, both these issues are decided against management No. 1 & 2 and in favour of the claimant-workman.

Issue No.4:

37. Onus to prove this issue is on the managements.

38. Learned Representative for the managements contended that the claim statement is time barred. A Civil Suit does not lie after the expiry of three years of the cause of action. In the present case, the demand notice was received by the Assistant Labour Commissioner, Chandigarh in February 2020 for the benefit claimed by the claimant for the year 2011. On the other hand, Learned Representative for the claimant argued that the claimant is seeking his revised pay w.e.f. 01.11.2011, amount of interim relief and arrears of pay with interest @ 18% per annum as per the award given on the recommendations of Majithia Wage Board. On every passing month, the claimant was getting less salary than his due entitlement and on every month a fresh cause of action had arisen in favour of the workman. Whereas the reference to this Tribunal was made by the Assistant Labour Commissioner, U.T. Chandigarh on 20.05.2020. Thus, the claim of the claimant is well within time in as much as the cause of action in the present case is recurring in nature.

39. As proved from the documents on judicial file, the claim raised the application under Section 17(1) of the Act 1955 before the Labour Commissioner, U.T. Chandigarh on 05.11.2019 and the Worthy Secretary Labour, Chandigarh Administration under Section 17(2) of the Act 1955 referred to present dispute for adjudication to this Tribunal / Court vide reference dated 20.05.2020. Moreover, the contention raised by Learned Representative for the claimant carries force as denial of revision of pay and benefits of arrears of pay is a continuing cause giving rise to a recurring cause of action. Therefore, the bar of limitation does not apply.

40. Accordingly, this issue is decided against management No. 1 & 2 and in favour of the claimant-workman.

Relief :

41. In the view of foregoing finding on the issue No.1 & 2 above, this reference is declined and answered against the claimant-workman. Appropriate Government be informed. File be consigned to the record room.

(Sd.). . . ,

(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,

Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Dated : 06.11.2023.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 13th February 2024

No. 13/1/9760-HII(2)-2024/ 2463.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **104/2020** dated **01.12.2023** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between:

PRESIDENT/GENERAL SECRETARY, MAINTENANCE AIR CONDITIONING TRADE
EMPLOYEE UNION (REGD.), C/O CHAMBER NO. 104, DISTT. COURT, SECTOR 43,
CHANDIGARH. (Workmen)

AND

1. THE ENGINEERING DEPARTMENT, CHANDIGARH ADMINISTRATION.
2. THE CHIEF ENGINEER, CAPITAL PROJECT ENGINEERING DEPARTMENT, UNION TERRITORY CHANDIGARH. (Management)

AWARD

1. Vide Endorsement No.13/1/9760-HII(2)-2020/15841 Dated 14.12.2020 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 04.05.2019 raised by the Maintenance Air Conditioning Trade Employees Union (*here-in-after referred "workers' union"*) upon the Engineering Department, Chandigarh Administration & Another (*here-in-after in referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*here-in-after in short referred "ID Act"*) in following words:—

"Whether the demand raised in the demand notice dated 04.06.2019 by President/ General Secretary, Maintenance Air Conditioning Trade Employees Union (regd.), C/o Chamber No.104 Distt. Court, Sector 43, UT, Chandigarh AND The Engineering Department, Chandigarh Administration & The Chief Engineer, Capital Project, Engineering Department, Union Territory, Chandigarh are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. Upon notice, the workers' union appeared through its representative Shri Naresh Chander, who on 22.07.2021 made the statement that the demand notice dated 04.06.2019 may be treated as statement of claim. Accordingly, the demand notice dated 04.06.2019 was ordered to be treated as statement of claim.

3. In the demand notice-cum-statement of claim, it is averred that the meeting of Maintenance Air Conditioning Trade Employee Unions (Regd.) Chandigarh was held on 04.06.2019 and it was unanimously resolved that injustice is being done with the members of the workers union, who are also employees of Chandigarh Administration. They have been asked to perform their duties 6 days a week whereas other employees of Chandigarh Administration and Capital Project are performing their duties only 05 days a week including their counterpart working in the same department and under the same employer. Therefore, workers' union has decided to fight for justice by way of filing demand notice and further President and Secretary of the workers' union have been authorized to sign demand notice, statement of claim, give evidence and engage the authorised representatives to plead the case of workers' union before Assistant Labour Commissioner and before Labour Court/Tribunal, U.T. Chandigarh. The members of the workers' union are working in A.C. Trade under the management and are working as A.C. Mechanic since long and are

permanent employees. They are maintaining the A.C. Plant in the offices of Chandigarh Administration. The complete particulars of the members of the workers' union are mentioned in Annexure 'A' enclosed with the demand notice.

4. It is further averred that member of workers' union are employees of Capital Project Engineering Department of Chandigarh Administration and their services are governed under the same service Rules as are governing other employees of Chandigarh Administration. Members of workers' union are working under the control and supervision of same authority as counterpart of members of workers' union who are working as Ministerial Staff and other wings of Engineering Department. There is one and same appointing and punishing authority of members of workers' union as well as those employees who are working and employed in the offices. The Chandigarh Administration adopted the Punjab Civil Services Rules including pay and Punishment & Appeal Rules, 1971 and same were made applicable w.e.f. 01.04.1991. After this date all the Service Rules as applicable to the employees of State of Punjab are applicable to employees of Chandigarh Administration including pay, holidays and public holidays. Even before 01.04.1991 by notification dated 10.11.1980, Chandigarh Administration had declared all Saturdays as holidays in the offices of Chandigarh Administration. There are same Rules regarding holidays in the offices of Chandigarh Administration including Department of Capital Project and no separate rules regarding holiday have been prescribed for Ministerial Staff and Technical Staff. The Chandigarh Administration notified the public holidays to be observed in Chandigarh Administration during the year 1993 on 08.02.1992. As per this notification dated 08.02.1992, all the Saturdays have been declared as holidays to the employees U.T. Chandigarh and no separate notification have been issued regarding the holidays to be observed by the Ministerial Staff and Technical Staff working with Chandigarh Administration. Before 01.04.1991, notification dated 10.11.1980 was issued by Chandigarh Administration whereby decided to fall in line with Punjab and Haryana Governments and adopt 05 days week in Chandigarh Administration and all Saturdays were declared holidays in the offices falling under Chandigarh Administration. Since 1980 till date Chandigarh Administration is following 05 days week in office and all Saturdays as holidays. The Chandigarh Administration has not issued or framed any Rules wherein different holidays and working hours have been prescribed to employees working against Technical Posts in the department of Capital Project of Engineering Department. There are similar Rules regarding holidays and working hours in the department of Capital Project of Punjab, Haryana and Chandigarh under the Rules. After 1980 working for 05 days week was adopted in all offices by the Chandigarh Administration but started discriminating with the members of the workers' union by asking them to work for 06 days in a week whereas their counterparts were being asked to work for 05 days a week without paying any extra wages. Till date employees / members of workers' union are being asked to work for 06 days and Ministerial Staff is working for 05 days in a week without any reasons and justification. In similar manner, in the office of Controller, Printing and Stationary Department, Punjab and Haryana, the Technical Staff working in the Press were being asked to work for 06 days a week whereas their counterparts working in the office known as Ministerial Staff were working for 05 days a week and enjoying all Saturdays as holidays. The employees working in the Haryana Press filed CWP No.9983 of 1988 praying that they are similarly situated as that of Ministerial Staff therefore, they should not be compelled to work on Saturdays and if they are asked to work on Saturday in that case they are entitled for extra wages. During the pendency of above mentioned Civil Writ Petition, employees working in Printing Press in State of Haryana, Hon'ble Supreme Court of India laid down a law in a case of **Municipal Employees Union (Registered) Sirhind and Others Versus State of Punjab & Others** reported in **2000(9) SCC 432** held that Octroi Clerk working in Octroi Post have to work on Saturday whereas Octroi Clerk working in office were enjoying Saturdays as holidays therefore, Octroi Clerk working on Saturday are to be compensated per working on Saturday by paying extra wages by applying the law of 'equal pay for equal work'. On the basis of this judgement of Hon'ble Supreme Court CWP No. 9983 of 1988 was allowed and petitioners were asked to file application under Section 33-C(1)(2) of the ID Act for computing their benefits. In view of the judgment passed in CWP No.9983 of 1988 employees of Haryana Press filed applications under Section 33-C(1)(2) of the ID Act for computing benefits in lieu of Saturdays before the Labour Court, Chandigarh and those applications were allowed and amount was computed in terms of money and the departments was directed to pay the same.

Against the order of Labour Court, U.T. Chandigarh whereby applications under Section 33-C(1) (2) of the ID Act of employees of Haryana Press were allowed, State of Haryana filed a Civil Writ Petition and one of such Civil Writ Petition was registered in CWP No. 20865 of 2008. All the writ petitions were dismissed as per Judgment dated 13.02.2009. Thereafter, State of Haryana filed LPA No. 481 of 2009 which was also dismissed on 12.11.2010. Thereafter, State of Haryana filed SLP No.4404 of 2011 which was also dismissed on 25.02.2011. Now the State of Haryana has implemented the decisions and have paid the extra amount for working on Saturdays to their employees. Thereafter, employees of Government Press, U.T. Chandigarh, who were working against Technical Post filed demand notice claiming that they are also entitled for holidays on Saturdays in the same manner as employees who are working in Ministerial Staff and are enjoying all the Saturdays as holidays. Further they claimed extra pay i.e. over-time allowance for working on Saturdays for the past period. The dispute could not be resolved before the Conciliation Officer, U.T. Chandigarh, therefore, dispute was referred to Labour Court/Tribunal for adjudication. Before the Labour Court/Tribunal the dispute was registered as IDR No.85 of 2012 which was answered in favour of the employees vide Award dated 16.11.2016. Subsequently, Chandigarh Administration implemented Award dated 16.11.2016 and made the payment of extra pay for working on Saturday in the past and for future all the Saturdays have been notified as holidays for the employees working in the technical wing of Chandigarh Press, U.T. Chandigarh as notified vide letter dated 12.11.2012. In view of the above submissions, it is submitted that members of workers' union are also similarly situated as employees of U.T. Press working on Technical Posts for whom Chandigarh Administration have declared all Saturdays as holidays w.e.f. 12.09.2012 and have paid extra pay for working on Saturday in the past. The members of workers' union are entitled for extra pay/wages for working on Saturday w.e.f. 01.04.1991 and further all the Saturdays be declared as holidays in future. The workers' union as well as the individual have made several representations to declare all Saturdays as holidays and to pay extra pay for working on Saturday but all in vain. The workers' union also made a request on 01.03.2019 that Award dated 16.11.2016 passed in favour of Chandigarh Press Employees be implemented in their case also but till date their request has not been considered hence the demand notice.

5. On notice, management No.1 & 2 contested the claim statement by filing joint written statement on 25.08.2022 wherein preliminary objections are taken on the ground that the applicant-union through the present demand notice is seeking the relief of treating the daily wage, purely work charge and work-charged (regular) employees at par to the Ministerial Staff of Chandigarh Administration and accordingly seeking the relief of 05 days a week with weekly rest on Saturday and Sunday as are made applicable in respect of Ministerial Staff. The applicant-union has not relied upon any rule, regulation by which the field staff engage for execution of work could be treated at par to the Ministerial Staff or the orders by which the competent authority has passed an order making the members of union entitled to avail Saturday and Sunday as weekly rest. Therefore, the present claim application is not maintainable. Under the settled Rules and the law, the cadre of daily wage, purely work charge and work-charged (regular) employees as well as of Ministerial Establishment forms two distinct cadres, appointed to different sanctioned posts, different Head of Account to which their wages are debited. The members of workers' union are entitled to the weekly rest after working for 6 days and 48 hours a week, thus, are different to the Ministerial Establishment which is governed by different Rules, governing the matter of grant of holidays and working hours. The above said category of daily wage, purely work charge and work-charged (regular) employees could be equated with the Ministerial Establishment, as wrongly pleaded by the applicant-union in the present demand notice. The applicant-union has filed the present demand notice under Section 2(k) of the ID Act without establishing its right to represent the workers, the name of whom has not been disclosed in the demand notice, by proving that the applicant-union declaring themselves to be the President and General Secretary of the union are duly elected by members of the union as required under the Trade Union Act, 1926 (*here-in-after in short referred 'Act 1926'*) and further proving that the union has submitted annual returns to the Registrar, on or before such date as may be prescribed, a general statement audited in the prescribed manner, of all receipts and expenditure of the union during the year ending on 31st December, next proceedings such prescribed date, and of the assets and liability of the applicant Trade Union existing on such 31st day of December of every year together with

general statement sent to the Registrar, a statement showing all changes of office-bearers made by the Trade Union during the year to which general statement refers, as required under Section 20 (1) and (2) of Act 1926 to prove that the registration of the applicant-union is still continuing and has not been terminated on account of above said default, if any, of the applicant-union and the signatories of the demand notice are duly and legally elected by its members and thus are legally entitled to raise the demand of the said workers. In the present circumstances, the applicant-union is ineligible to raise any demand notice before the respondents-managements as well as before this Court without establishing its rights to raise the present demand notice, by adducing relevant documents before this court. It is a settled proposition of law that union, which do not prove itself to be a registered body under the Act 1926, is not a Trade Union within the meaning of Section 2(b) of the said Act and in the absence of it being a registered body, the applicant-union is incompetent to raise or make any demand for and on behalf of employees, so as to fall within the scope and ambit of the Industrial Dispute as mentioned in Section 2(k) of the ID Act. Before taking any decision in respect of the demand raised in the present demand notice, the applicant-union is required to establish its rights to raise the demand notice, by adducing relevant documents that the registration of the applicant-union still exists on the date of demand notice was raised and signatories of the demand notice are duly elected member of the applicant-union, thus are entitled to raise the present demand notice. Duties performed by the applicant-union are entirely different from Ministerial Staff. They are performing the field duties at various A.C. Plants installed in the city such as Vidhan Sabha, Raj Bhawan, Museum, Hospital, Courts etc. and their duties include carrying out repairs on installation of all types of air-conditioning and refrigeration appliances and attached equipment like compressors, pumps, control switchgears. They have to perform the duties of 6 days a week and a weekly rest has been given.

6. Further on merits, the resolution passed by the applicant-union in meeting held on 04.06.2019 is denied for want of knowledge. It is stated that the applicant-union has not annexed copy of resolution, if any, arrived at by the members of applicant-union as well as in view of the submission made in the preliminary objections. The conditions of service and the Rules of the field workers as well as of Ministerial Establishment are different as daily wage, purely work charge and work-charged (regular) employees are appointed against different sanctioned posts, their wages are debited to separate Head of Account, thus both the category of Ministerial Establishment as well as daily wage, purely work charge and work-charged (regular) employees form distinct classes. Since the field staff is further governed by the Labour Laws, thus are only entitled to weekly rest after every 6 working days and the holidays. The applicant-union has not relied upon the Rules under which its members are entitled to the relief, as pleaded in the demand notice. The applicant-union had not referred to detail of its members. The category of Ministerial Establishment as well as daily wage, purely work charge and work-charged (regular) employees are governed by different Rules, provisions of labour law and of the ID Act. Thus, the applicant-union has failed to establish its right to the relief sought for in the demand notice on the basis of provisions of the Rules, regulations and further proving that the above said provisions of rules are applicable to all field employees having status of daily wage, work charge and work-charged (regular) employees. Since all the categories are governed by different rules, thus, no relief could be claimed by the applicant-union without submitting the detail of the members of the applicant-union, their status and further proving that all members of the applicant-union are entitled to the relief under the relevant Rules, as sought for in the present demand notice. It is a settled proposition of law that the relief could not be claimed on the basis of mere equity or equality or on the basis of mere presumption without establishing its right to the same, without relying upon the relevant rules under which the said relief admissible. The applicant-union has not relied upon any rules under which its members are entitled to the relief. It is denied for want of knowledge that the workmen are members of the union. However, it is admitted that workmen are maintaining the A.C. Plant in various building of Chandigarh Administration. They are performing the field duties at various A.C. Plants installed in the city such as Vidhan Sabha, Raj Bhawan, Museum, Hospital, Courts etc. and their duties include carrying out repairs on installation of all types of air-conditioning and refrigeration appliances and attached equipment like compressors, pumps, control switchgears. It is denied that members of the applicant-union are governed by the same Rules as wrongly pleaded in the demand notice-cum-claim statement by the applicant-union. They belong to field staff and their duties are different from the other staff. The competent

authority has passed order in respect of the functioning of offices of the Chandigarh Administration by enhancing the working hours of the Ministerial Staff working in the office, with holiday on every Saturday. Since the working hours of the field staff are not related to the functioning of the offices and have not been changed and for the reason that the field staff is not working in the offices, the order so passed by the authority is not applicable to the field staff. Since the applicant-union has not annexed copy of notification relied upon, thus existence of the same is a matter of record. The applicant-union is pleading in respect of the circulars related to the Ministerial Establishment, instead of relying on the documents and the Rules supporting the case of applicant-union by placing copy of the same on record, proving entitlement of the members of the applicant-union to the relief. Being industrial and field workers, the members of the applicant-union are entitled to 1 weekly rest after performing duties for 6 days and 48 hours a week. The applicant-union has not referred to Rules under which the industrial workers are entitled to 2 weekly rests after performing duties for 5 days, as claimed. The applicants are performing the exigencies services to maintain the A.C. Plants at various sites in Chandigarh. However, all the gazette holidays are given to the applicant. Since, the duties of technical/field staff are different from the Ministerial Staff and thus the applicant-union belongs to distinct cadre than the Ministerial Establishment, thus the orders passed in respect of the timings of the offices as well as keeping the office closed on Saturdays, is not applicable to the employees working in the field particularly when the applicant-union has failed to establish existence of any orders of its application to daily wage, work charge and work-charged (regular) employees and copy of same has not been annexed with the demand notice. The holidays and working hours of the Ministerial Staff in the offices as well as of the field staff engage for execution of the work are different and are not the same as wrongly claimed. The plea taken by the applicant-union regarding discrimination with the applicant is wrong, false and not supported with any Rules and Regulations, proving parity with Ministerial Establishment and thereafter proving discrimination with the members of the union. Since there exist valid differentiation between both cadres, thus could not be said to be discriminatory. The field staff is governed by different rules after working 6 days in a week. The applicant-union had failed to prove the entitlement of the field workers to remain on 2 weekly rests on Saturday and Sunday being not working in the Administrative office. Since the Ministerial Establishment as well as field staff forms two distinct classes, are governed by different rules, thus could not be treated at par to the Ministerial Establishment as wrongly claimed by the applicant-union. While working on daily wage, work charge and work-charged (regular) basis, in the Public Health wing of the Engineering Department, the applicant-union is relying upon the order, if any, passed in case of the employees working in the Printing Department of Punjab and Haryana which is totally irrelevant to the applicant-union. The facts of the said case are distinguished from the facts of the present case, thus is not applicable to the case of the applicant-union. Since members of the workers' union are not working in the Printing Press, thus are not similarly situated as are the applicants in the case relied upon by the applicant-union, thus decision, if any, taken in respect of the employees of the Printing Press, is of no help to the case of the applicant-union being not applicable to employees engaged to execute the Government works in the Punjab Health wing of Engineering Department of Chandigarh Administration and for the reason that field workers have different duties. As per the judgment of Hon'ble High Court of Punjab & Haryana in CWP No. 8815-2017 decided on 10.07.2018 titled as State of Punjab & Others Versus Madhu Sharma & Others, applicants are not entitled to any relief. In fact the applicant has misread the judgment of Hon'ble Supreme Court in case of Municipal Employees Union (Regd.) Sirhind and Others Versus State of Punjab & Others reported in 2000 (9) SCC 432 as Ministerial Cadre and the Field Staff forms two different cadres governing the matter of grant of holiday and office working hours of the office functioning, thus the judgement relied upon is not applicable to the case of applicant-union. While considering the above said judgment of the Hon'ble Supreme Court, in the case of Roop Lal & Others Versus State of Punjab & Others, 2013(2) SCT 690 the Hon'ble High Court of Punjab & Haryana in Para 9 of the judgment held that *"In the case in hand there are specific Rules applicable for the post in terms of which the members of the service are entitled to have one paid holiday in every week besides other notified holidays. Hence, to claim that the petitioners should be granted extra payment for working on Saturdays is not tenable. The case of the petitioners cannot be equated with other cases, as have been referred to be counsel for the petitioners, for the reasons that no service Rule governing the paid holidays to be enjoyed by the members thereof have*

been referred to in the aforesaid judgement." In view of the above said judgment of the Hon'ble High Court, the applicant-union is not entitled to the relief sought for by the applicant-union in the present demand notice. Since the applicant-union has not raised claim under Section 33(C) (1) & (2) thus the contents of rest of para 11 need no comments. Even otherwise claim under Section 33(C) (2) of the ID Act could only be filed, if the entitlement of the workman to a certain benefit is not disputed and is settled one. The Hon'ble Supreme Court in case of Municipal Corporation of Delhi Versus Ganesh Razakm, 1995 Lab. IC (SC) 330 has held that the dispute relating to entitlement is not incidental to the benefit claimed and therefore is clearly outside the scope of proceedings under Section 33-C(2) of the ID Act. It is well settled proposition of law that a decision, as is well known, is an authority of what it decides and not what can logically be deduced therefrom. Further the judgment relied upon by the applicant union could be made applicable if it covers all the four corners of the case in hand and squarely covers the facts of the present case. Further similar stand is taken as taken in the preliminary objections. Rest of the contents of the demand notice-cum-claim statement are denied as wrong except Para 13 which is replied in a formal manner by stating that it needs no comments. Prayer is made that the demand notice of the applicant-union may be dismissed / set aside being devoid of any merit.

7. Workers' union filed replication wherein the contents of the written statement except admitted facts are denied as wrong and averments of claim statement are reiterated.

8. From the pleadings of the parties, following issues were framed vide order dated 12.10.2022:—

1. Whether the demands raised in the demand notice dated 04.06.2019 by the workers' union are genuine and justified ? If so, to what effect and to what relief the workers' union / workmen is entitled to, if any ? OPW
2. Whether the present claim petition is not maintainable ? OPM
3. Relief.

9. In evidence, the workers' union examined workman Ram Gopal as AW1 who tendered his affidavit Exhibit 'AW1/A' along with copies of documents Exhibit 'W1' to Exhibit 'W6'.

Exhibit 'W1' is Gazette Notification dated 13.01.1992 published on 06.02.1992 of Government of India, Chandigarh Administration.

Exhibit 'W2' is notification dated 08.12.1992 whereby public holidays for U.T. Chandigarh employees has been declared for the year 1993.

Exhibit 'W3' is order dated 28.08.2019 passed in LCA No.296/2014.

Exhibit 'W4' is Award dated 16.11.2016 passed in IDR No.85/2012.

Exhibit 'W5' is office order dated 12.09.2012 declaring all the Saturdays as holidays in the department of Printing & Stationary, U.T. Chandigarh.

Exhibit 'W6' is representation dated 01.03.2019 for grant of payment of wages in lieu of Saturday holidays.

10. On 12.07.2023, Learned Representative for the workers' union closed evidence in affirmative on behalf of workers' union.

11. On the other hand, the management examined MW1 Lalit Kumar, Executive Engineer; who tendered his affidavit Exhibit 'MW1/A'. In cross-examination MW1 brought into evidence copy of letter No.13347-IH(5)-80/25969 issued from Home Secretary, Chandigarh Administration to All Administrative Secretaries, Chandigarh Administration & Others relating to the subject of working hours to be observed in Chandigarh Administration - Adoption of 5 days a week vide Exhibit 'M1'

12. On 17.10.2023, Learned Law Officer for the management closed oral evidence. On 01.12.2023, Learned Law Officer for the management closed documentary evidence.

13. I have heard arguments of Learned Representative for the workers' union and Learned Law Officer for the management No.1 & 2 and perused the judicial file. My issue-wise findings are as below:-

Issue NO. 1:

14. Onus to prove this issue is on the workmen / workers' union.

15. Under this issue the workers' union examined worker Ram Gopal as AW1, who vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity. AW1 supported his oral version with documents Exhibit 'W1' to Exhibit 'W6'.

16. On the other hand, the managements examined MW1 Lalit Kumar, Executive Engineer; who vide his affidavit Exhibit 'MW1/A' deposed all the material contents of the written statement, which are not reproduced here for the sake of brevity and to avoid repetition. MW1 has supported his oral version with document Exhibit 'M1'.

17. From the oral as well as documentary evidence led by the parties, it comes out that undisputedly members of workers' union are employees of Capital Project Engineering Department of Chandigarh Administration and are working in A.C. Trade as A.C. Mechanic under management No.1 & 2. They are maintaining A.C. Plants installed in the city Chandigarh such as Vidhan Sabha, Raj Bhawan, Museum, Hospitals, Courts etc. It is undeniable fact that their duties include carrying out repairs on installation of all types of air conditioning & refrigeration appliances and attached equipment like Compressors, Pumps, Control Switch Gears. It is also undisputed fact that members of the workers' union perform duty 6 days a week. Further, the facts remained admitted between the parties that as per notification dated 06.02.1992 / Exhibit 'W1', Chandigarh Administration adopted Punjab Civil Services Rules, including pay, Punishment & Appeal Rules, 1971 and same are made applicable to employees of Chandigarh Administration w.e.f. 01.04.1991. It is also admitted by the parties that Chandigarh Administration issued notification No.06/1/1/92-IH(I)21912 dated 08.12.1992 / Exhibit 'W2' whereby public holidays to be observed in all the government offices under the Chandigarh Administration during the calendar year 1993, *saka* 1914-15 was notified, which included all Sundays and all Saturdays apart from other holidays. There is also no dispute between the parties with regard to the fact that before 01.04.1991 notification was issued by the Chandigarh Administration whereby 5 days a week was adopted in the Chandigarh Administration.

18. It is argued by Learned Representative for the workers' union that after year 1980, working for 5 days in a week was adopted in all the offices by the Chandigarh Administration but the members of the workers' union are discriminated as they were asked to work for 6 days in a week without paying any extra wages whereas their counter-parts i.e. Ministerial Staff were asked to work for 5 days a week, which has no justification. MW1 in his cross-examination stated that he has not brought the copy of Rules indicating that Technical Staff is a field staff and they have to work for 6 days a week. MW1 in his cross-examination further stated that except Exhibit 'M1' there is no other order with regard to working hours or working days in a week. Learned Representative for the workers' union laid much stress upon the fact that there are similar Rules regarding holidays and working hours in the Department of Capital Project of Punjab, Haryana and Chandigarh. There are no rules that working hours of Ministerial Staff is 5 days in a week and for Technical Staff is 6 days in a week. Besides, the members of the workers' union are not field staff and not working in the field but they are Technical Staff working in the same office / place where Ministerial Staff is working. It is further argued by Learned Representative for the workers' union that since the services of the Technical Staff and Ministerial Staff are governed under the same set of Rules, therefore, members of the workers' union are entitled to holiday on every Saturday in the same manner as provided to the Ministerial Staff and they are also entitled to the extra pay for the work done on Saturdays. Learned Representative for the workers' union referred cross-examination of MW1 Lalit Kumar wherein he has admitted as correct that every year a notification is issued regarding holidays and including the working for 5 days to the employees of Chandigarh Administration. There is no notification to the effect that Technical Staff have to work for 6 days a week. MW1 admitted as

correct that Chandigarh Administration is issuing a single notification for observing holidays and other weekly holidays to the employees of the Chandigarh Administration. To support his argument, Learned Representative for the workers' union referred ***judgment dated 24.08.2004 of Hon'ble High Court of Punjab & Haryana in CWP No. 9983 of 1988*** titled as ***Jagdish Chand & Others Versus State of Haryana & Others, Order dated 14.06.2007 passed by the Industrial Tribunal & Labour Court, U.T, Chandigarh in LCA No. 217 of 2004*** relating to an application filed under Section 33- C (2) of the I.D. Act in pursuance of judgment dated 24.08.2004 in CWP No. 9983 of 1988, ***judgment dated 03.02.2009 of Hon'ble High Court of Punjab & Haryana in CWP No. 20865 of 2008 in Commissioner, Secretary, Printing & Stationary, Haryana & Another Versus The Presiding Officer, Labour Court, U.T, Chandigarh.***

19. On the other hand, it is argued by Learned Law Officer for management No.1 & 2 that the cadre of daily wage, purely work charge and work charged (Regular) employees as well as Ministerial Establishment forms two distinct cadres. The members of the workers' union are entitled to weekly rest after working for 6 days and 48 hours in a week. Thus, they are different from the Ministerial Staff, which is governed by different Rules, regarding matter of grant of holidays and working hours. The members of workers' union are entirely different from Ministerial Staff and they are performing field duties at various A.C. Plants installed in the city such as Vidhan Sabha, Raj Bhawan, Museum, Hospitals, Courts etc. and their duties include carrying out repairs on installation of all types of air conditioning & refrigeration appliances and attached equipment like Compressors, Pumps, Control Switch Gears. To support his arguments Learned Law Officer referred ***judgment dated 02.08.2018 passed by the Hon'ble High Court in CWP No. 7826-2017*** titled as ***State of Punjab & Others Versus Shudish Kumar @ Sudish Kumar & Another And connected writ petitions.***

20. In the present case, the members of workers' union are the Technical Staff of Chandigarh Administration and they are seeking parity with the Ministerial Staff of Chandigarh Administration in the matter of leave / holidays. The Technical Staff is working 6 days a week with 1 day off i.e. Sunday and the Ministerial Staff is working for 5 days a week with 2 days off i.e. Saturday and Sunday. No extra salary is paid to the Technical Staff for working on Saturdays. The plea of workers union that they are performing duty in office like members of Ministerial Staff is not established. AW1 Ram Gopal (members of workers' union) when put to cross-examination stated that he is working as Technician Grade-I, A.C. at Project Public Health, Division No.3, deputed at Governor House, Punjab. His working hours are 12:00 Noon to 08:00 P.M. The aforesaid version of AW1 would imply that he is performing a field duty and not office duty because the office hours of Chandigarh Administration are from 09:00 A.M. to 05:15 P.M. w.e.f. 12.11.1980 as per Exhibit 'M1'. For better appreciation the contents of Exhibit 'M1' are reproduced as below:-

"I am directed to address you on the subject noted above and to say that it has been decided by this Administration to fall in the line with Punjab and Haryana Govts and to adopt five days' week, as per their pattern. Consequently, every Saturday will now be a closed holiday. The working hours of this Administration are hereby revised from 10.00 A.M. to 5.00 P.M. to 9.00 A.M. to 5.15 P.M. with effect from 12.11.1980. Apart from maintaining uniformity regarding working hours with Punjab and Haryana Governments, it is hoped that this decision will also effect economy in the consumption of petrol, diesel, electricity etc."

21. In the aforesaid letter Exhibit 'M1' 5 days week is adopted by the Chandigarh Administration to fall in line with Punjab & Haryana Governments and at the same time the office hours are revised from 10:00 A.M. to 05:00 P.M to 09:00 A.M. to 05:15 P.M. w.e.f. 12.11.1980. It is not the case of the workers union that they are performing duty as per the working hours mentioned in Exhibit 'M1'. As already mentioned, AW1 has stated that he is performing duty from 12:00 Noon to 08:00 P.M. which supports the plea of the management that the members of the workers' union are performing field duty. The judgments / law referred by Learned Representative for the workers' union i.e. judgment dated 24.08.2004 in CWP No. 9983 of 1988 and judgment dated 24.08.2004 in CWP No. 9983 of 1988 (supra) are well recognized by this Court but the ratio of the rulings is not applicable to the facts of the present case and distinguishable on facts. As per the judgments referred supra by Learned Representative for the workers' union, the employees belonging to Ministerial Staff and Industrial Staff for the purpose of leave are governed by Haryana Civil Services Rules and there are

no separate Rules governing this aspect. In the present case, the members of the workers union are admittedly governed by CPWD Rules, according to which they are entitled to holidays under Labour Law with weekly rest after working for 6 days and 48 hours a week. In this regard, AW1 Ram Gopal in his cross-examination admitted as correct that members of the union are governed by CPWD Rules. AW1 further admitted as correct that members of the union under CPWD Rules are entitled to holidays under the Labour Law and weekly rest after working for 6 days and 48 hours in a week. AW1 further admitted as correct that he is a member of the union. AW1 admitted as correct that Rules of Ministerial Staff are different from the Rules of Union. As discussed above, AW1 who is one of the members of the workers union, is performing 8 hours duty in a day i.e. from 12:00 noon to 08:00 P.M. which comes to 48 hours in 6 working days with 1 weekly off on Sunday. The judgment dated 02.08.2018 of the Hon'ble High Court in CWP No.7826/2017 and related writ petitions referred by Learned Law Officer is applicable to the facts of the present case wherein Para 13 it is held as below :-

"13. In the present case, no member of the cadre belonging to the respondents has ever been granted the benefit of Saturday and Sundays and comparison is sought to be made between the non-technical staff, which is devoted to the office work and the petitioners are deputed on duty in the field. As the respondents-workmen were not working as office staff and as such, they were not entitled for five days' week with two off days in a week, rather they were/are entitled to get one weekly off with six working days in a week."

22. In view of the discussion made above, the members of the workers' union are Technical Staff performing field duty and cannot be equated with the Ministerial Staff of Chandigarh Administration performing office duty. Hence, members of the workers' union are not entitled to the relief of 5 days week with 2 off days in a week, they are entitled to get 1 weekly off with 6 working days a week. They are also not entitled to extra wages for the work done on Saturdays.

23. Accordingly, this issue decided against the workers' union / workmen and in favour of the management No. 1 & 2.

Issue No. 2 :

24. Onus to prove this issue is on the management.

25. This issue has not been pressed during course of arguments.

26. Accordingly, this issue is decided against the management No. 1 & 2 and in favour of the workers' union / workmen.

Relief :

27. In the view of foregoing finding on the issue No.1 above, this industrial dispute reference is declined and answered against the workers' union. Appropriate Government be informed. File be consigned to the record room.

(Sd.). . . .,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152.

Dated : 01.12.2023.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 13th February 2024

No.13/2/75-HII(2)-2024/2465.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **47/2022** dated **12.12.2023** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between:

GAMMA SINGH, H.NO.158, HALLOMAJRA, U.T. CHANDIGARH. (Workman)

AND

M/S CHANDIGARH WIRE PVT. LTD., PLOT NO. 181/27, INDUSTRIAL, AREA, PHASE- I,
U.T. CHANDIGARH. (Management)**AWARD**

1. Gamma Singh, workman has presented industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that on 01.08.2003, workman was appointed as Operator by the management. The workman remained in the continuous and uninterrupted employment up to 04.10.2021 when his services were illegally and wrongfully terminated by refusing of work. The workman was drawing ₹ 10,000/- per month as wages at the time of termination. The workman was on authorised leave for 4 days from 30.09.2021 to 03.10.2021 for the medical treatment of his mother at Sonipat, Haryana. On 04.10.2021, when the workman went to attend his normal duty, he was informed by the management that his services are no more required. The refusal of work, which amounts to termination, is retrenchment under Section 2(oo) of the ID Act. The management has violated Section 25-F of the ID Act. No charge-sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. Violation of the same makes the termination void. For his reinstatement the workman served upon the management a demand notice dated 08.02.2022. The management neither denied the contents of the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for his intervention. The management did not appear before the Conciliation on any date fixed for settlement. The termination is illegal, motivated, against the principle of natural justice and unfair labour practice. The workman remained unemployed during the period i.e. from the date of termination to till date. Prayer is made that workman may be reinstated with continuity of service along with full back wages and without any change in his service condition.

3. On notice, Shri Anil Gupta, Director of the management appeared in person on 17.10.2022. Despite availing opportunity written statement was not filed. Due to non-appearance of anyone, the management was proceeded against ex-parte vide order dated 09.12.2022.

4. In *ex-parte* evidence workman Gamma Singh examined himself as AW1 and tendered his affidavit Exhibit 'AW-1/A' along with copy of his ESIC Card No. 1709080588 vide Exhibit 'W-1' (the original of Exhibit 'W-1' was produced at the time of recording evidence which was seen and returned).

5. Workman examined AW2 Gurmeet Singh, Assistant O/o ESI, Sector 29, Chandigarh who brought into evidence online copies of documents attested by Branch Manager, ESIC, Chandigarh i.e. E-pehchan card of Insured Person Gamma Singh, Insurance No. 1709080588 vide Exhibit 'AW-2/1'; return of contributions

of ESIC for the period w.e.f. October 2009 to September 2021 vide Exhibit 'AW-2/2'; attested copy of authority letter issued in his favour by Branch Manager, ESI, Chandigarh, vide Exhibit 'AW-2/3'.

6. On 12.12.2023, Learned Representative for the workman closed ex-parte evidence.

7. I have heard the arguments of Learned Representative for the workman and perused the judicial file.

8. In order to prove its case workman Gamma Singh appeared as his own witness as AW1 and vide his affidavit Exhibit AW-1/A deposed the averments of claim statement in toto which are not reproduced here for sake of brevity. AW1 supported his oral version with Exhibit 'W-1'. Learned Representative for the workman referred testimony of AW2 Gurmeet Singh, Assistant, O/o ESIC, who proved documents Exhibit 'AW-2/1' to Exhibit 'AW-2/3'.

9. From the oral as well as documentary evidence led by the workman, it is made out that workman was appointed on 01.08.2003 as Operator by the management and the workman remained in continuous and uninterrupted service of the management up to 04.10.2021. From documents Exhibit 'W-1', Exhibit 'AW-2/1' to Exhibit 'AW-2/2', it is further proved into evidence that the services of the workman were covered under ESI Scheme. The workman has alleged that when after availing authorised leave of 4 days from 30.09.2021 to 03.10.2021, he reported on duty on 04.10.2021, he was verbally refused work by the management by informing that his services are no more required. In this manner, workman is proved to have completed continuous service of more than 240 days in twelve calendar months preceding termination of his services (services being terminated on 04.10.2021). With this the workman falls within the definition of Section 25-B of ID Act. Once the workman falls within the definition of Section 25-B of ID Act, then provision of Section 25-F of the ID Act stands attracted which lays down conditions precedent to retrenchment of workman. For better appreciation Section 25-F of the I.D. Act is reproduced as below:—

"25F. Conditions precedent to retrenchment of workmen. - No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette]."

10. The workman has alleged that before terminating his services, the management has neither issued charge-sheet, nor conducted inquiry, nor paid retrenchment compensation. On the other hand, the management despite appearance through its Director did not bother to contest the claim statement and preferred to be proceeded against ex-parte. Thus, the evidence led by the workman has gone unrebutted and unchallenged and there is no reason to disbelieve the same. In view of the reasons recorded above, the termination of the services of the workman is proved illegal being in violation to Section 25-F of the ID Act and is hereby set aside. Since the termination of services of the workman is illegal, thus, the reinstatement with continuity of service is normal rule. Workman has alleged that he remained unemployed from the date of termination till date. Consequently, workman is held entitled to reinstatement with continuity of service along with 50% back wages.

11. In the light of findings above, this industrial dispute is ex-parte allowed. The workman is entitled to reinstatement with continuity of service along with 50% back wages. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till the date of actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

Dated : 12.12.2023

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT
Notification

The 13th February 2024

No. 13/1/9773-HII(2)-2024/ 2467.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **53/2021** dated **02.11.2023** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between:

MUKESH SINGH & 20 OTHERS, C/O KOTHI NO.345, SECTOR 21-A, CHANDIGARH
(Workmen)

AND

THE CHIEF CONSERVATOR, FOREST DEPARTMENT, CHANDIGARH ADMINISTRATION,
PARYAVARAN BHAWAN, 2ND FLOOR, MADHYA MARG, SECTOR 19-B, CHANDIGARH.
(Management)

AWARD

1. Vide Endorsement No.13/1/9773-HII(2)-2021/4857 Dated 03.05.2021 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the demand notice dated 28.07.2018 raised by the Mukesh Singh & 20 Others (*here-in-after referred "workmen"*) upon the Chief Conservator, Forest Department, Chandigarh Administration (*here-in-after referred "management"*) under Section 2(k) of the Industrial Disputes Act, 1947 (*here-in-after in short referred "ID Act"*) in following words:-

"Whether the demand raised in the demand notice dated 28.07.2018 by Sh. Mukesh Singh & 20 others (Claimant/Complainant) AND The Management the Chief Conservator, Forest Department, Chandigarh Administration, Paryavaran Bhawan, 2nd Floor, Madhya Marg, Sector-19-B, Chandigarh are genuine and justified. If so, to what effect and to what relief the Union/Workers are entitled to, if any ?"

2. Upon notice, the workmen appeared through their representative Shri Satyavir Singh, who on 26.07.2022 made the statement that the demand notice dated 28.07.2018 may be considered as statement of

claim. Briefly stated the facts of demand notice-cum-statement of claim are that the workmen have been working under the direct control & supervision of Shri Bhupinder Singh - Deputy Range Officer, Forest Department, Chandigarh Administration, Chandigarh. The workmen are continuously working with the management from last 4 to 20 years. The management covers area of Sector 14, 25, 39, 42, 53 and village Nada and other forest area situated in the jurisdiction of Chandigarh Administration. At the time of appointment of the workmen, the management assured them that their services will be permanent and regularised with Government Pay Scale. The workmen started their golden years of their ages to have work with the management in the hope of permanent and regular services with Government Pay Scale. Since from the last few years, Shri Bhupinder Singh started paying wages to the workmen in cash on each & every month right up to 31.10.2016. The workmen came to know that their services have been shown under the name of a person Sh. Dilbag Singh (Contractor) thus, the alleged contractor just concealed the employee and employer relation. But control & supervision is still in the hand of Shri. Bhupinder Singh-Deputy Range Officer, Forest Department, Chandigarh. Despite several requests of the workmen, being illiterate and low educated, the management and alleged contractor have not issued appointment letter, attendance card, leave card, wage slip, designation letter, service certificate and employment card to the workmen. Moreover, the terms & conditions of the service have also not been determined to the workmen despite several verbal and written requests. The alleged contractor and officials of the management with the malafide and wrong intentions started illegal anti-human activities with working employees and started sexually harassment to female workers at the work places. Upon which one complaint was sent to Police Post, Sector 24, Chandigarh but under the influence of officer of the management no action was taken against the contractor and officials of the management. Thereafter, the complaint was also submitted to S.S.P. Chandigarh at Public Window under Reference No.PW201806222. The management and alleged contractor have involved in illegal practices. They have neither complied with basic service rules; Payment of Wages Act, 1936; Minimum Wages Act, 1948; The Abolition of Contract Labour Act, Equal Remuneration Act, Leaves with Wages Act nor mentioned names of the workmen in the records. It is a clear-cut violation of various prescribed Labour laws by the alleged contractor and officials of the Forest Department. The workmen have been dragged in deep problems at this stage of age and above said well planned practices of the management comes under White Collar Crime. Moreover, the assurance for permanent and regularisation of service given to the workmen is bogus and the official of the Forest Department are now saying that they will not be responsible for their services, they all are not their employees. The alleged contractor also says "You are not our employees". There is gross violation of various provisions of Labour laws and in the above said circumstances, the workmen are left with no other remedy except to move the demand notice under Section 2(k) of the ID Act. There is genuine charter of demands of the workmen which may be constituted at work place for secure employee and employer relation, which are as under:—

1. **REGULARISATION OF OFF RECORD WORKMEN:**—At present 147 workmen are working in Forest Department and their names have not been entered in original muster roll and they are kept away from the original record. Since last 4 to 20 years, they are working with the Forest Department. They should be taken on original record along with permanent workmen and provided all the benefits, proper grades and scales from the date of joining to each concerned workman. All the workmen should be made permanent with arrear of pay scale and other benefits (Equal Pay for Equal Work) according to judgment of Hon'ble Supreme Court in Civil Appeal No.213 of 2013, State of Punjab & Others Versus Jagjit Singh & Others.
2. **CONSTITUTE COMMITTEE FOR PROTECTION OF WOMAN FROM SEXUAL HARRASSMENT AT WORK PLACE:**—According to guideline of Hon'ble Supreme Court of India in Vishaka & Others Versus State of Rajasthan & Others, (1997)6 SCC 241, it is mandatory to each department to declare name of Anti Sexual Harassment Committee Members. In the Forest Department, U.T. approximately 73 Lady Workers directly or indirectly working, in spite of that, the department has not constituted anti-sexual harassment committee.

3. WAGES MAY BE PAID AT MONTHLY DC RATE :-The workmen are working as Mali, Chowkidar and Labour so they demand notified DC rates declared by Government from time to time.
4. BENEFITS UNDER LABOUR LAW :-The workmen demand attendance card, wages slips, identity card, leave card, to each workmen and wages may be paid through bank account.
5. UNIFORM :-The workmen demands two uniform sets with one *jarsi* (upper) and one pair leather shoes in the month of September every year and washing allowance Rs.800/- per month may given to each workmen.
6. ANNUAL FESTIVAL LEAVES:- The workmen have not allowed any kind of leave with wages during their service. They demand 11 days festival leaves for every year to each workman, Annual Leaves with wages, 18 days Privilege Leaves with wages, casual leaves, 15 days leaves with wages and sick leaves with wages. Till date weekly holiday is not allowed to the workmen. It may be allowed and arrears of previous service may be paid.
7. THE SERVICE RECORD MAY BE COMPLETED:—The workmen are working since 4 to 20 yeas continuously with the department, their service record may be completed with full transparency. There is no legal contractor. Even the Forest Department, Chandigarh Administration has not taken RC under The Contract Labour (Regulation & Abolition) Act, 1970 (in case of principal employer).
8. WORKMEN ARE WORKING IN NIGHT SHIFTS:—The workmen, who are working in night shift may be provided torch, rain coat and other safety arrangement as provided to the regular workmen.

The workmen reserve the right to add, alter or modify the charter of demand with the consent of general body as per the exigency of the case and to lead oral or documentary evidence at the stage of the case to prove its contentions.

3. On notice, the management appeared through its authorized representative, who made the statement that he does not intend to file any separate written statement to the claim application-cum-demand notice, however, reply dated Nil to the demand notice dated 28.07.2018, photocopy of which is already on judicial file may be considered as written reply to claim application-cum-demand notice. In written reply to demand notice preliminary objections are raised on the ground that the present demand notice is not maintainable. The workmen on whose behalf present demand notice is being raised were never in the employment of the management. There was no privity of contract between the workmen and the management, as such, no employer-employee relationship ever existed between them. The management has engaged various contractors. The workmen are the employees of the contractors and not of the management. The present demand notice is also liable to be rejected as the workmen are not competent to raise the demand notice under the ID Act either with management or with employer. The workmen are employed by the contractors, therefore, they have remedy to file / raise demand notice under the Contract Labour (Regulation & Abolition), Act, 1970 and rules thereunder and not under the ID Act. The present demand notice has been raised by the workmen only against the management but not against the employers / contractors of the workmen and the workmen have not impleaded the contractors with ulterior motives. This authority has got no jurisdiction to adjudicate the present demand notice raised by the workmen of various contractors of the management in as much as the workmen have raised the demands only against the principal employer and not against the contractors. The workmen have intentionally concealed the material facts of not disclosing the names of their actual employer i.e. the contractors of the management. The alleged union of the workmen has not adopted any resolution before filing the present demand notice.

4. On merits, it is stated that the workmen never worked under direct control & supervision with Shri Bhupinder Singh - Deputy Range Officer, Forest Department, Chandigarh Administration, Chandigarh. The workmen with ulterior motives have concealed their relationship with the contractors of the management. The workman never made any request to the management nor there was any occasion for the workmen to make any request to the management. The management never did any illegal, anti-human acts with the workmen of the contractors. No complaint was ever submitted and none of the official of the management has ever been called by the police officials. The management is not the employer of the workmen. No assurances, as alleged, were made to the workmen by any official of the management. The workmen are the employees of the contractors of the management and the management has no direct control over the workmen. The management has not done any violation of any provision of labour laws, as alleged. The demand raised by the workmen against the management is not, at all, sustainable and legal. The workmen are not entitled to raise any demand notice what to say of raising demand notice under Section 2(k) of the ID Act against the management.

1. **REGULARISATION OF OFF RECORD WORKMEN:**—This demand of the workmen against the management is not tenable as the workmen were never been the employees of the management. The records whatsoever pertaining to the workmen are maintained by the contractor and the management has no liability to maintain any record of the workmen, who are not the employees of the management. The law, which has been referred to by the workmen under this demand is not applicable to the facts & circumstances of the present case.
2. **CONSTITUTE COMMITTEE FOR PROTECTION OF WOMAN FROM SEXUAL HARASSMENT AT WORK PLACE:**—There is committee constituted by the management.
3. **WAGES MAY BE PAID AT MONTHLY DC RATE:**—The contractors of the management are paying wages more than the rate of minimum wages to its employees.
4. **BENEFITS UNDER LABOUR LAW:**—The workmen are not the employees of the management, hence, question of maintaining their record as demanded by them under this demand is not sustainable and tenable to be maintained by the management.
5. **UNIFORM:**—The workmen are not the employees of the management, hence, question of providing uniforms to them is not sustainable and tenable.
6. **ANNUAL FESTIVAL LEAVES:**—The workmen do enjoys festival leaves. Regarding other leaves demanded under this demand, it is submitted that since the workmen are the employees of the contractor and not the direct employees of the management hence, granting other leaves to the workmen does not come under the purview of the management.
7. **THE SERVICE RECORD MAY BE COMPLETED:**—The workmen are not the employees of the management, hence, question of maintaining their record, as demanded by them under this demand is not sustainable and tenable to be maintained by the management. The management had applied for the Certificate of Registration under CRLA in the month of August, 2018 and after removing the various discrepancies, the Labour Department has issued the Registration Certificate bearing No.PE/CL/291 dated 11.10.2018 and the management is permitted to engage 11 contractors for total number of employees of 195.
8. **WORKMEN ARE WORKING IN NIGHT SHIFTS:**—The workmen are not the employees of the management, hence, question of providing any articles as have been alleged does not arise at all.

The workmen are not entitled to any reservation to add, alter or modify and charter of demand. Prayer is made that the demands may be rejected.

5. During the pendency of the present industrial dispute, on 02.11.2023 Learned Representative for the workmen made the statement, which as follows:—

"Stated that on the instructions of workmen, due to some technical defect, I do not intend to proceed further with the present Industrial Dispute Reference and withdraw the same with liberty to file the same afresh. It may be disposed off accordingly."

6. Heard. In view of the statement of Learned Representative for the workmen, the present industrial dispute reference is disposed off being not pressed with liberty to file the same afresh. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . .,

Dated : 02.11.2023

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 13th February, 2024

No.13/2/76-HII(2)-2023/2500.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **93/2018 dated 02.11.2023** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between:

AJAY KUMAR S/O GIANI YADAV, H.NO.295, HALLOMAJRA, U.T. CHANDIGARH. (Workman)

AND

1. M/S M.R. SECURITY & HOUSEKEEPING SERVICES, H.NO.155, PHASE IV, MOHALI THROUGH ITS MD.
2. M/S QUATOM SOLUTION INDIA PVT. LTD., TOWER-F, 2ND FLOOR, I.T. PARK CHANDIGARH THROUGH ITS MD. (Management)

AWARD

1. Ajay Kumar, workman has presented industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed as Security Guard by the management No.1 in the year 2003 and was deployed at the work place of management No.2. The workman remained in the un-interrupted employment up to 30.04.2016, when his services were illegally & wrongfully terminated by refusing of work. The workman was drawing ₹ 12,500/- per month as wages at the time of termination. On 01.05.2016, the workman went to attend his normal duty but he was refused work by the management No.1 & 2 without assigning any reason and notice. The workman then lodged a complaint

with the Labour Inspector, U.T. Chandigarh but the Representative of management No.1 refused to take him back on the job before the Labour Inspector. The management No.2 did not appear before the Labour Inspector. The refusal of work, which amounts to termination, is retrenchment under Section 2(oo) of the ID Act. The termination is illegal, wrongful, motivated and against the principle of natural justice. The managements have also violated Sections 25-F of the ID Act. No charge-sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. The violation of the same makes the termination void. For his re-instatement workman served upon the management a demand notice dated 13.04.2018. The management neither replied the demand notice nor took the workman back on duty. The Conciliation Officer, U.T, Chandigarh was requested for his intervention. The management did not appear before the Conciliation Officer on the last date of hearing. During the course of conciliation, the management No.1 alleged that the workman resigned from the service which the workman denied. It is also denied that the workman left the job at his own to start his own work. The workman remained unemployed during the said period. Prayer is made that the workman may be re-instated with continuity of service along with full back wages and full attendant benefits without any change in his service conditions.

3. On notice, the management No.1 contested the claim statement by filing written reply on 04.09.2019 wherein preliminary objections are raised on the ground that the workman has not approached the Court with a clear conscience and has mentioned misleading facts in order to attain a favourable order. The workman was never denied work or removed but instead has voluntarily stopped coming to work from 28th April, 2016 and had later withdrawn his PF also after resigning. The workman had started his own work with that money and this was the main motive behind leaving the job. Now the workman has lost all his money and has failed in his venture, thus he wants to join back in his job. The workman has worked at M/s Quantum Solutions Pvt. Ltd., Tower 'F', 2nd Floor, IT Park, Chandigarh till 25th April, 2016. Thereafter, the workman was transferred to Bebo Technology, Sector 34, Chandigarh where he worked for 3 days i.e. till 28th April, 2016 and was absent thereafter. The workman was demanding that he should only be posted to a particular location which is not possible given the fact that the answering management No.1 has to transfer manpower as per shortage and requirement at different locations. The answering management has already filled up the post so vacated by the workman and does not have any vacancy at this moment. But the workman is free to apply for his future vacancies and shall be considered as per merit. No other benefit is due towards the workman from the side of the answering management.

4. Further on merits, it is admitted to the extent that the workman was in service with management No. 1 till 30.04.2016 and was deployed by the management No. 1 at the office of management No. 2, to perform the duty of Security Guard. It is denied that the workman was in continuous service with the management No. 1. The workman joined with the management No.1 from 01.07.2013 only and stopped coming to work after 28.04.2016. After 28.04.2016, the workman never came to attend duty but only came to the office of management No. 1 to withdraw his PF after a period of about 2 months. Further similar stand is taken as taken in the preliminary objections. It is reiterated that the workman left the job at his own and there was no removal. Had the workman been removed, he would have immediately filed application before the Conciliation Officer and would not have wasted almost 2 years to do so. The answering management should not be penalised for the voluntarily action of the workman for when the workman failed in his independent work and lost all the money which he got after withdrawing his provident fund, the workman decided to get his job back. The answering management is a contractor and the demand for work force depends upon the contract. There are no permanent posts available with the answering management. Moreover, at this time no vacancy is available with the answering management. Rest of the contents of the claim statement are denied as wrong and prayer is made that the claim statement may be dismissed in the interest of justice and fair play.

5. Notice issued to management No.2 for 23.04.2019 was duly executed through its HR Manager but none appeared on behalf of the management. Thus, vide order dated 23.04.2019, management No.2 was proceeded against ex-parte.

6. Replication was not filed. From the pleadings of the parties, following issues were framed vide order dated 30.05.2019:-

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

7. In evidence, workman Ajay Kumar examined himself as AW1 and tendered his affidavit Exhibit 'AW1/A'. Cross-examination of AW1 was deferred. At the stage of cross-examination of AW1 and remaining evidence of the workman, due to non-appearance of anyone on behalf of management No.1, vide order dated 07.09.2022 the management No.1 was proceeded against ex-parte. It is pertinent to mention that on 07.09.2022 AW1 Ajay Kumar was present for his cross-examination. On 26.10.2023 Learned Representative for the workman closed ex-parte oral evidence and on 02.11.2023 closed ex-parte documentary evidence.

8. I have heard arguments of Learned Representative for the workman and perused the judicial file. My issue-wise findings are as below:-

Issue No. 1:

9. Onus to prove this issue is on the workman.

10. Under this issue, the workman Ajay Kumar examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for the sake of brevity. The plea of the workman is that he was appointed by management No.1 in the year 2003 and was deployed at the work place of management No.2. It is further pleaded by the workman that he remained in continuous and uninterrupted employment up to 30.04.2016. On the other hand, management No.1 in its written reply stated that the workman was appointed from 01.07.2013 and he stopped coming to work after 28.04.2016. It is admitted by the management No.1 that the workman was deployed with the management No. 2. From the aforesaid plea of the management No.1 taken in its written reply, it is duly proved on record that workman was appointed by the management No.1 and deployed to work with the management No.2. As far as the date of appointment and last working day of the workman is concerned, the management No.1 / employer is supposed to be in possession of the service record of its employees including the workman. In the present case, the management No.1 has not come present to cross-examine the workman, though the workman presented himself in the witness box on 07.09.2022 and preferred to be proceeded against ex-parte. Therefore, the version of AW1 Ajay Kumar by way of his affidavit Exhibit 'AW1/A' has gone un-rebutted and unchallenged and there is no reason to believe the same. The un-rebutted version of AW1 Ajay Kumar would prove that he remained in continuous employment of the management No.1 from year 2003 up to 30.04.2016 and he was refused work by the managements w.e.f. 01.05.2016. In the written reply management No.1 has taken the plea that the workman has voluntarily stopped coming to work w.e.f. 28.04.2016 and had later withdrawn his PF also after resigning. Management No.1 further pleaded that the workman has left the job and he started his own work with the money withdrawn from his PF account. Now the workman has lost all his money and failed in his venture therefore wants to join back in his job with management No.1. Moreover, now the management No.1 has already filled up the post so vacated by the workman and does not have any vacancy at this moment. The aforesaid plea taken by management No.1 in its written reply does not stand proved as the management No.1 did not lead any oral or documentary evidence, despite knowledge of the pendency of the present industrial dispute reference and despite appearance through its Representative, which raises strong presumption against the management No.1. Management No.2 also did not bother to contest the industrial dispute reference and preferred to be proceeded against ex-parte. If for the sake of arguments it is assumed that the workman stopped coming to work w.e.f. 28.04.2016, in that situation also the management No.1 & 2 at no point of time had served notice to the workman to resume his duties. There is no document on record

showing the alleged resignation of the workman. The management No.1 & 2 did not initiate any domestic inquiry against the workman due to his alleged misconduct of remaining absent. Under these circumstances, the verbal refusal of work to the workman amounts to termination which is retrenchment under Section 2(oo) of the ID Act. Managements have neither issued any notice or pay in lieu of notice period nor paid retrenchment compensation to the workman which is violation of Section 25-F of the ID Act. There is no evidence that the workman was gainfully employed after termination of his services.

11. In view of the reasons recorded above, the workman is held entitled to reinstatement with continuity of service with management No.1 and 50% backwages.

12. Accordingly, this issue is decided in favour of the workman and against the management No. 1 & 2.

Relief :

13. In the view of foregoing finding on the issue above, the present industrial dispute is ex-parte allowed. The workman is entitled to reinstatement with continuity of service with management No.1 and 50% backwages. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till its actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK),
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

Dated : 02.11.2023

Secretary Labour,
Chandigarh Administration.

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Notification

The 26th February, 2024

No. 46 / V.A.4.—Hon'ble the Acting Chief Justice has been pleased to make the following appointments/promotions to the post of Joint Registrar on the establishment of this Hon'ble Court in Level 24 in the Pay Matrix (initial pay Rs.91,500/-) corresponding to the Pay Band of Rs.15,600-39,100/- + Grade Pay of Rs.7,800/- (unrevised as per recommendations of the 5th Punjab Pay Commission notified by the Government of Punjab in the year 2009, applicable w.e.f. 01.01.2006) w.e.f. **26.02.2024** :—

S. No.	Name of the Officer(s)	From	To	Remarks
1	Sh. Manoj Kumar	Offg. Special Secretary	Offg. Joint Registrar	Against a vacant post
2	Ms. Savita Sharma	Offg. Deputy Registrar	Offg. Joint Registrar	Against a vacant post
3	Sh. Narinder Sabharwal	Offg. Special Secretary	Offg. Joint Registrar	Against a vacant post

Note: The above appointments/promotions of the Officers are on probation in terms of Rule 23(1) of High Court Establishment (Appointment & Conditions of Service) Rules, 1973.

(Sd.) . . . ,

(ASHISH KUMAR BANSAL),
Registrar (Administration),
for Registrar General.

CHANGE OF NAME

I, Ashutosh Kumar, S/o Late Shri Gya Prasad, R/o 176, Vikas Nagar, Mauli Jagran, UT, Chandigarh, hereby affirm and declare that my Father's name erroneously mentioned in my documents as Gya Prasad instead of Gaya Parshad. Gya Prasad and Gaya Parshad is one and the same person.

[256-1]

I, Dilshad, S/o Sh. Reazudin, R/o # 143/C, Mauli Jagran, UT, Chandigarh, have changed my name from Dilshad to Mohamad Dilsad.

[257-1]

I, Pintu, S/o Munna Lal, # 32, Sector-2, Chandigarh, have changed my name to Raj Kumar.

[258-1]

I, Vijay Bahadur, S/o Ram Raj Yadav, # 89/2, Small Flats, Maloya, Chandigarh, have changed my name to Vijay Bahadur Yadav.

[259-1]

I, Gurpratap Singh Paul, S/o Sh. Jeet Singh Paul, R/o # 2095, Sector 21-C, Chandigarh, have changed my name from Gurpratap Singh Paul to Gurrpratap Singh Paul.

[260-1]

I, Savita, C/o Moni, R/o 651, Phase 2, Ind. Area Ramdarbar, Chandigarh, have changed my name Savita to Savita Devi.

[261-1]

I, Daljeet Kaur Bharara, W/o Gurpreet Singh Bharara, R/o SCF No. 225, 1st Floor, Near Bus Stand, Manimajra, Chandigarh, changed my name Priya Bharara.

[262-1]

I, Shagun, W/o Mr Rajat Verma, R/o 3359, Sector 32-D, Chandigarh, have changed my name to Shagun Verma after marriage.

[263-1]

I, Harish Kumar, S/o Kuldeep Singh, R/o # 947, Mohalla Bhara Mal Kua Manimajra, Chandigarh, declare that I have changed my minor daughter's name from Rohine to Rohine Kumari.

[264-1]

I, Harish Kumar, S/o Kuldeep Singh, R/o # 947, Mohalla Bhara Mal Kua Manimajra, Chandigarh, declare that I have changed my minor son's name from Vivek to Vivek Kumar.

[265-1]

I, Sandeep, S/o Dhanasekar, R/o # 6034, Maloya Colony, UT, Chandigarh, have changed my name to Sandeep D.

[266-1]

मैं, सुनीता, पत्नी अच्छे लाल, निवासी # 2219, सेक्टर 25 -डी, चंडीगढ़, घोषणा करती हूँ कि मैंने अपना नाम सुनीता से बदलकर सुनीता देवी रख लिया है ।

[267-1]

I, Resham Singh, S/o Shri Dila Ram, R/o House No. 3148, Mauli Jagran Complex, Chandigarh. I declare that I have changed my name to Resham for all future intents & purposes.

[268-1]

I, Ankit, S/o Ram Kumar Dabra, # 5158-B, Sector 38 West, Chandigarh, have changed my name to Ankit Dabra.

[269-1]

I, Anita, W/o Ram Kumar Dabra, # 5158-B, Sector 38 West, Chandigarh, have changed my name to Anita Dabra.

[270-1]

I, Balkar, S/o Bhangi Ram, R/o H. No. 648, Sector 22-A, Chandigarh, have changed my name to Balkar Singh.

[271-1]

I, Monika Sharma, D/o Sh. Joginder Sharma, W/o Sh. Sandeep Kumar, R/o House No. 5631/2, Maloya Colony, Chandigarh, have changed my name from Monika Sharma to Monika Beniwal (after my marriage).

[272-1]

I, Bhikham Singh, S/o Brij Lal Guleria, R/o # 621/1, Milk Colony, Dhanas, Chandigarh, have changed my name to Bhikham Singh Guleria.

[273-1]

I, Ashok Kumar, S/o Raghbir Singh, R/o # 20, NITTTR Campus, Sector 26, Chandigarh, have changed my minor son name from Aarash to Aarash Kumar.

[274-1]

I, Tanuja, W/o Parkash Rana, # 5341/2, MHC, Manimajra, Sector 13, Chandigarh, have changed my name to Tanuja Rana.

[275-1]

I, Shalini Tiwari, W/o Vikas Mishra, R/o #30, Block D, Sector 14, Panjab University, Chandigarh, have changed my name to Shalini Mishra.

[276-1]

I, Punam Khurana, w/o Anil Kumar Bhayana, r/o H.No. 285, Secor 32-A, Chandigarh, have changed my name to Punam Bhayana.

[277-1]

I, Madhu Ojha, W/o Ajay Kumar Sharma, R/o # 2483, Sector 19-C, Chandigarh, have changed my name to Pooja Sharma.

[278-1]

I, Dinesh Lawat, S/o Lalit Lawat, R/o # 234, First Floor Sector 32-A, Chandigarh, have changed my minor son's name from Ayaan Lawat to Keshav Lawat.

[279-1]

I, Sunaina, D/o Sarjeevan Kumar Sharma, R/o # 250, Village Khudda Lahora, Chandigarh, have changed my Name from Sunaina to Sunaina Sharma.

[280-1]

I, Dhanraj Randhawa, D/o Buta Singh, R/o # 74, Sector 33-A, Chandigarh, have changed my name from Dhanraj Randhawa to Dhanraj Kaur.

[281-1]

I, Megha, W/o Prince Goel, R/o SCF No. 6, Motor Market, Manimajra, Chandigarh, have changed my name from Megha to Megha Goel.

[282-1]

I, Ankita Malik # 83, Sangam Enclave, Sector 48, Chandigarh, changed my minor daughter's name from Anika Chadha to Anika Malik.

[283-1]

I, Krishan Kumar, S/o Uttam Chand Pahwa, R/o Qtr No. 1121-B, Second Floor, Block-B, Sector 46, Chandigarh (160047), have changed my name to Krishan Kumar Pahwa.

[284-1]

I, Vandana Rana, D/o Sh. Rajinder Singh Rana, R/o # 43, Sector 18-A, Chandigarh, have changed my name from Vandana Rana to Vandana Reeta Kohli.

[285-1]

I, Rekha Devi, W/o Sunil Yadav, R/o # 239, Sector 52, Kajehri, Chandigarh, have changed my name to RekhaYadav.

[286-1]

"No legal responsibility is accepted for the contents of publication of advertisements/public notices in this part of the Chandigarh Administration Gazette. Persons notifying the advertisements/public notices will remain solely responsible for the legal consequences and also for any other misrepresentation etc."